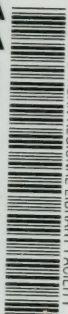


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XV. 1. 23

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*Author of "Saint's Manual of Registration."*

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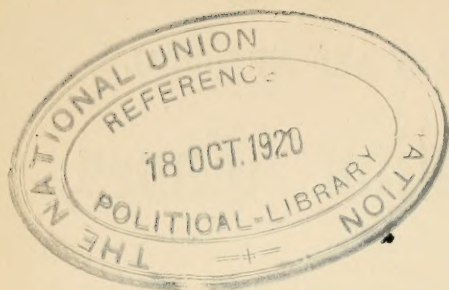
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## PREFACE.



LIBRARY SETS  
ENCOURAGED by the favourable reception accorded to my "Digest of Registration Cases," and having regard to the changes effected by recent legislation relating to the Franchise and the Registration of Voters, I venture to think that a new Edition of the Work may be of use to Revising Barristers and others concerned in the business of Registration.

DEC 16 1940  
Acting on this view, I have compiled the present Edition, in which the arrangement and classification of Cases are in substantial conformity with those in the former Edition.

HARDING  
But, the Occupation Qualification in Counties and Boroughs having (by virtue of 48 Vict. c. 3) become assimilated, I have (in reporting cases decided on the Occupation Franchise since 1884) discontinued the use of distinctive headings indicating the Occupation Franchise in Counties and Boroughs respectively, and have substituted the general term of "Occupation Franchise under 48 Vict. c. 3."

388038

In order to obviate an inconvenience which was pointed out to me in the former Edition, I have (in compiling the Table of Cases) caused the figures denoting a page or pages containing the *report* of a case to appear in larger type than the figures denoting a page, which contains merely a *reference* to the particular case. The size of the volume has been necessarily enlarged; but I trust not inconveniently so.

To the above remarks I wish to add an expression of my acknowledgment of the very useful suggestions which I have received from my friend, Mr. Octavius J. Williamson, of 9, Stone Buildings, Lincoln's Inn.

JOHN J. H. SAINT.

9, KING'S BENCH WALK, TEMPLE,

*August, 1887.*



# CONTENTS.

|                                  | PAGE        |
|----------------------------------|-------------|
| TABLE OF CASES . . . . .         | ix—xxi      |
| TABLE OF ABBREVIATIONS . . . . . | xxiii, xxiv |

|  |         |
|--|---------|
| COUNTY FRANCHISE—FREEHOLDS . . . . .   | 1—81    |
| COUNTY FRANCHISE—OTHER TENURES THAN<br>FREEHOLD . . . . .                            | 82—85   |
| COUNTY FRANCHISE—TERMS . . . . .   | 86—92   |
| COUNTY FRANCHISE — OCCUPATION (50%.<br>RENTAL) . . . . .                             | 93—95   |
| COUNTY FRANCHISE—OCCUPATION (12%. RATE-<br>ABLE VALUE) . . . . .                     | 96—98   |
| BOROUGH FRANCHISE—OCCUPATION . . . . .   | 99—163  |
| BOROUGH FRANCHISE—RESERVED RIGHTS . . . . .  | 164—175 |
| BOROUGH FRANCHISE—LODGINGS . . . . .   | 176—183 |
| OCCUPATION FRANCHISE UNDER 48 VICT. C. 3,<br>INCLUDING CLAIMS FOR THE SAME . . . . . | 184—216 |
| NOTICES OF CLAIM—COUNTIES . . . . .  | 217—225 |
| NOTICES OF CLAIM—BOROUGHES . . . . .   | 226—233 |
| NOTICES OF OBJECTION—COUNTIES . . . . .  | 234—258 |
| NOTICES OF OBJECTION—BOROUGHES . . . . .   | 259—302 |
| DECLARATIONS FOR CORRECTING MISDESCRIP-<br>TION IN LIST . . . . .                    | 303—305 |

|  | PAGE    |
|--|---------|
| SUFFICIENCY OF DESCRIPTION IN LISTS OF<br>VOTERS . . . . . | 306—329 |
| RATING AND PAYMENT OF RATES . . . . .                      | 330—365 |
| ASSESSED TAXES . . . . .                                   | 366—368 |
| CREATING VOTES . . . . .                                   | 369—374 |
| PERSONAL DISQUALIFICATIONS . . . . .                       | 375—395 |
| LISTS OF VOTERS . . . . .                                  | 396—402 |
| BOUNDARIES . . . . .                                       | 403—408 |
| PRACTICE . . . . .   | 409—444 |
| COSTS OF APPEAL . . . . .                                  | 445—449 |
| <hr/>  |         |
| INDEX . . . . .  | 451—472 |

## TABLE OF CASES.

|   | PAGE                                  |
|---|---------------------------------------|
| ABEL <i>v.</i> Lee .....                        | 356, 357                              |
| Acland <i>v.</i> Lewis .....                    | 24, 25                                |
| Adams <i>v.</i> Bostock .....                   | 300, 301                              |
| —— <i>v.</i> Ford .....                         | 205—207                               |
| —— <i>v.</i> Gamble .....                       | 72                                    |
| —— <i>v.</i> Harris .....                       | 133, 134                              |
| Adey <i>v.</i> Hill .....                       | 422                                   |
| Agnew <i>v.</i> Campbell .....                  | 425, 435                              |
| —— <i>v.</i> Fowler .....                       | 431, 435                              |
| —— <i>v.</i> Reilly .....                       | 354                                   |
| Ainsworth <i>v.</i> Creeke .....                | 351, 352                              |
| Aldridge <i>v.</i> Medwin .....                 | 291                                   |
| Aldworth <i>v.</i> Dore .....                   | 427, 428                              |
| Alexander <i>v.</i> Newman .....                | 369, 370, 371, 372, 373, 374          |
| Allan <i>v.</i> Waterhouse .....                | 259, 260, 411, 412, 416, 421, 434     |
| Allen <i>v.</i> Geddes .....                    | 292                                   |
| —— <i>v.</i> Greensill .....                    | 269, 270                              |
| —— <i>v.</i> House .....                        | 264, 265                              |
| ——, <i>Re</i> .....                             | 397                                   |
| —— <i>v.</i> The Town Clerk of Warrington ..... | 292                                   |
| Ancketill <i>v.</i> Baylis .....                | 160, 161                              |
| Anelay <i>v.</i> Lewis .....                    | 20                                    |
| Ashmore <i>v.</i> Lees .....                    | 5—7, 414, 416                         |
| Ashworth <i>v.</i> Hopper .....                 | 59, 60                                |
| Astbury <i>v.</i> Henderson .....               | 19                                    |
| Atkinson <i>v.</i> Collard .....                | 184—189, 190, 191, 194, 197, 199, 203 |
| Att.-Gen. <i>v.</i> Pearson .....               | 26                                    |
| Austin <i>v.</i> Cull .....                     | 358, 359                              |
| Autey <i>v.</i> Topham .....                    | 409, 421                              |
| Bage <i>v.</i> Perkins .....                    | 415, 416, 429, 430, 434               |
| Baker <i>v.</i> Locke .....                     | 338, 341, 342                         |
| Bakewell <i>v.</i> Peters .....                 | 177, 178                              |



|  | PAGE                              |
|--|-----------------------------------|
| Ballard <i>v.</i> Robins .....                 | 400, 401                          |
| Bane and others, <i>In re</i> .....            | 225, 441, 442                     |
| Banks <i>v.</i> Mansell .....                  | 212—215                           |
| Barclay <i>v.</i> Parrott .....                | 278                               |
| Barlow <i>v.</i> Mumford .....                 | 230                               |
| Barnes <i>v.</i> Peters .....                  | 177, 178                          |
| Barrow <i>v.</i> Buckmaster .....              | 18, 68                            |
| Bartlett <i>v.</i> Gibbs .....                 | 306                               |
| Barton <i>v.</i> Ashley .....                  | 241, 265, 266                     |
| —— <i>v.</i> Birmingham .....                  | 330, 350, 356, 364                |
| Baxter <i>v.</i> Brown .....                   | 3—5                               |
| —— <i>v.</i> Doncaster .....                   | 376, 377                          |
| —— <i>v.</i> Newman .....                      | 3—5                               |
| Bayley <i>v.</i> Nantwich .....                | 217, 218                          |
| Beal <i>v.</i> Ford.....                       | 173, 174                          |
| Beamish <i>v.</i> Stoke .....                  | 13—15, 30, 52                     |
| Bearn <i>v.</i> Watson .....                   | 66—68                             |
| Beauchamp, Earl of <i>v.</i> Madresfield ..... | 385                               |
| Beenlen <i>v.</i> Hockin .....                 | 269                               |
| Beeson <i>v.</i> Burton .....                  | 16, 17                            |
| Bendle <i>v.</i> Watson .....                  | 318, 319                          |
| Benesh <i>v.</i> Booth .....                   | 285, 416, 420, 434                |
| Bennett <i>v.</i> Atkins.....                  | 364, 365, 415                     |
| —— <i>v.</i> Blain .....                       | 5, 31, 32, 39                     |
| —— <i>v.</i> Brumfitt .....                    | 290                               |
| —— <i>v.</i> ——— (Alderson's case) .....       | 249, 250                          |
| —— <i>v.</i> ——— (Ashcroft's case) .....       | 439                               |
| Berry <i>v.</i> Harris .....                   | 134                               |
| Beswick <i>v.</i> Aked.....                    | 372                               |
| —— <i>v.</i> Alker .....                       | 55                                |
| —— <i>v.</i> Ashworth .....                    | 372                               |
| Bickley <i>v.</i> Tucker .....                 | 123, 124                          |
| Birch <i>v.</i> Edwards .....                  | 238                               |
| Birks <i>v.</i> Allison (Brisby's case) .....  | 314                               |
| —— <i>v.</i> ——— (Dixon's case) .....          | 315                               |
| Bishop <i>v.</i> Cox .....                     | 237                               |
| —— <i>v.</i> Helps .....                       | 218, 236, 237, 240, 241, 243, 279 |
| —— <i>v.</i> Jones .....                       | 348, 349                          |
| —— <i>v.</i> Smedley .....                     | 335                               |
| Blain <i>v.</i> Pilkington .....               | 399, 400                          |
| Blosse <i>v.</i> Wheatley.....                 | 323                               |
| Bollen <i>v.</i> Southall .....                | 301, 302                          |

|   | PAGE                        |
|---|-----------------------------|
| Bond <i>v.</i> St. George's, Hanover Square ..... | 179                         |
| Boon <i>v.</i> Howard .....                       | 361—363                     |
| Boxall <i>v.</i> Bailey .....                     | 197—199                     |
| Bradley <i>v.</i> Baylis .....                    | 152—155, 157, 159, 161, 162 |
| Brewer <i>v.</i> McGowen .....                    | 139                         |
| Bridgewater <i>v.</i> Durant .....                | 124, 125                    |
| Bright <i>v.</i> Devenish .....                   | 289                         |
| Brown <i>v.</i> Tamplin .....                     | 240, 241                    |
| Brumfitt <i>v.</i> Bremner .....                  | 397—399                     |
| ——— <i>v.</i> Roberts .....                       | 48, 49, 50, 439, 440        |
| Buckley <i>v.</i> Wrigley .....                   | 52                          |
| Bulmer <i>v.</i> Norris .....                     | 24                          |
| Burton <i>v.</i> Aston .....                      | 11                          |
| ——— <i>v.</i> Blake .....                         | 431                         |
| ——— <i>v.</i> Brooks .....                        | 12, 13, 415, 431            |
| ——— <i>v.</i> Cove .....                          | 431                         |
| ——— <i>v.</i> Gery .....                          | 93, 94, 311, 312, 415       |
| ——— <i>v.</i> Langham .....                       | 94, 95                      |
| Bushell <i>v.</i> Eastes .....                    | 28, 29                      |
| ——— <i>v.</i> Luckett .....                       | 334                         |
| Busher <i>v.</i> Thompson .....                   | 8, 9, 420                   |
| Calver <i>v.</i> Roberts .....                    | 235, 252, 253               |
| Capel <i>v.</i> Aston .....                       | 11, 12                      |
| Caunter <i>v.</i> Addams .....                    | 340, 341                    |
| Chilcott <i>v.</i> Bullen .....                   | 68, 69                      |
| Chorlton <i>v.</i> Johnson (Bunting's case) ..... | 87, 88                      |
| ——— <i>v.</i> ——— (Ree's case) .....              | 249                         |
| ——— <i>v.</i> Kessler .....                       | 385                         |
| ——— <i>v.</i> Lings .....                         | 383, 384                    |
| ——— <i>v.</i> Stretford .....                     | 91, 92                      |
| ——— <i>v.</i> Tonge .....                         | 253, 254                    |
| Clarke <i>v.</i> Beaton .....                     | 422                         |
| ——— <i>v.</i> Brown .....                         | 350, 351                    |
| ——— <i>v.</i> Bury St. Edmunds .....              | 118, 119                    |
| Collier <i>v.</i> King .....                      | 25—27                       |
| Collins <i>v.</i> Thomas .....                    | 118                         |
| Colvill <i>v.</i> Lewis .....                     | 266, 418, 420               |
| ——— <i>v.</i> Wood .....                          | 109                         |
| Colville <i>v.</i> Rochester .....                | 414                         |
| Coogan <i>v.</i> Luckett .....                    | 108, 109                    |

|  | PAGE   |
|--|--|
| Cook <i>v.</i> Humber . . . . .                    | 101, 104, 105, 106, 111, <b>125, 126</b> , 127,<br>131, 177, 311 |
| — <i>v.</i> Luckett . . . . .                      | <b>337</b>   |
| Cooke <i>v.</i> Butler . . . . .                   | <b>96, 97</b>  |
| Cooper <i>v.</i> Ashfield . . . . .                | <b>313, 314</b>  |
| — <i>v.</i> Coates . . . . .                       | <b>411, 412</b>  |
| — <i>v.</i> Gordon . . . . .                       | 27   |
| — <i>v.</i> Harris (Austin's case) . . . . .       | <b>375, 414, 415, 429, 431</b>                                   |
| — <i>v.</i> — (Clenishaw's case) . . . . .         | <b>377, 378</b>  |
| Copland <i>v.</i> Bartlett . . . . .               | <b>10, 30, 52</b>  |
| Cotton <i>v.</i> Prall (Akenhead's case) . . . . . | <b>285, 286</b>  |
| — <i>v.</i> — (Frankenstein's case) . . . . .      | <b>286</b>   |
| Crocker <i>v.</i> Lambeth . . . . .                | <b>415, 416, 430</b>   |
| Cross <i>v.</i> Alsop . . . . .                    | 176, <b>354—356, 364</b>   |
| Croucher <i>v.</i> Browne . . . . .                | <b>166, 167, 416</b>   |
| Crowther <i>v.</i> Bradney . . . . .               | <b>282</b>   |
| Cull <i>v.</i> Austin . . . . .                    | <b>358, 359</b>  |
| Cullen <i>v.</i> Morris . . . . .                  | 168  |
| Cuming <i>v.</i> Toms . . . . .                    | <b>260, 261</b>  |
| Curtis <i>v.</i> Blight . . . . .                  | <b>279—281</b>   |
| Cuthbertson <i>v.</i> Butterworth . . . . .        | <b>137</b>   |
| — <i>v.</i> Hains . . . . .                        | 176, <b>352, 353</b>   |
|  |  |
| Daking <i>v.</i> Fraser . . . . .                  | <b>305</b>   |
| Daniel <i>v.</i> Camplin . . . . .                 | <b>308, 309</b>  |
| — <i>v.</i> Coulsting . . . . .                    | <b>105, 106, 308</b>   |
| Dashwood <i>v.</i> Ayles . . . . .                 | <b>326, 327</b>  |
| Davies <i>v.</i> Hopkins . . . . .                 | 182, <b>221, 222, 223, 225</b>                                   |
| Davis <i>v.</i> Waddington . . . . .               | <b>1</b>   |
| Dawson <i>v.</i> Robins . . . . .                  | <b>61</b>  |
| De Boinville <i>v.</i> Arnold . . . . .            | <b>379, 380</b>  |
| Devenish <i>v.</i> Digby . . . . .                 | <b>380</b>   |
| Dewhurst <i>v.</i> Fielden . . . . .               | <b>107</b>   |
| Dobson <i>v.</i> Jones . . . . .                   | <b>102, 103</b>  |
| Dodds <i>v.</i> Thompson . . . . .                 | <b>39, 40</b>  |
| Donoghue <i>v.</i> Byrne . . . . .                 | 190  |
| — <i>v.</i> Ritchie . . . . .                      | 190  |
| Doulon <i>v.</i> Halse . . . . .                   | <b>393, 394</b>  |
| Down <i>v.</i> Steele . . . . .                    | <b>406, 407</b>  |
| Downing <i>v.</i> Luckett . . . . .                | <b>112</b>   |
| Druitt <i>v.</i> Christchurch . . . . .            | 67, 70, <b>73, 74</b>  |



|   | PAGE                              |
|---|-----------------------------------|
| <i>Druitt v. Lane</i> .....                       | 70, 443, 444                      |
| <i>Durant v. Carter</i> .....                     | 146, 147                          |
| —— <i>v. Fletcher</i> .....                       | 361                               |
| —— <i>v. Kennett</i> .....                        | 141, 142                          |
| —— <i>v. Withers</i> .....                        | 360, 361                          |
| <i>Dyer v. Gough</i> .....                        | 375, 376, 377                     |
| <i>Eaden v. Cooper</i> .....                      | 228, 229                          |
| <i>Eckersley v. Barker</i> .....                  | 307, 308                          |
| <i>Eidsforth v. Farrer</i> .....                  | 268, 269                          |
| <i>Elliott v. St. Mary Within</i> .....           | 218–220, 416, 420                 |
| <i>Ellis v. Burch</i> .....                       | 145, 146                          |
| <i>Farrer v. Edsworth</i> .....                   | 268, 269                          |
| <i>Faulkner v. Boddington</i> .....               | 20, 21                            |
| <i>Feddon v. Sawyers</i> .....                    | 275                               |
| <i>Fernie v. Scott</i> .....                      | 53–55                             |
| <i>Firth v. Widdicombe-in-the-Moor</i> .....      | 222, 223                          |
| <i>Flatcher v. Boodle</i> .....                   | 344–346                           |
| <i>Flint v. Sharp</i> .....                       | 242                               |
| <i>Flounders v. Donner</i> .....                  | 227                               |
| <i>Force v. Floud</i> .....                       | 283, 284                          |
| <i>Ford v. Barnes</i> .....                       | 203, 204, 216                     |
| —— <i>v. Boon</i> .....                           | 230, 231                          |
| —— <i>v. Drew</i> .....                           | 174, 175                          |
| —— <i>v. Elmsley</i> .....                        | 204                               |
| —— <i>v. Harington</i> .....                      | 140, 141, 171, 172, 413           |
| —— <i>v. Hart</i> .....                           | 172, 173                          |
| —— <i>v. Hoar</i> .....                           | 321, 322, 325                     |
| —— <i>v. Pardoe</i> .....                         | 190                               |
| —— <i>v. Pye</i> .....                            | 147, 148                          |
| —— <i>v. Smedley</i> .....                        | 366, 367                          |
| —— <i>v. Smedon</i> .....                         | 444                               |
| —— <i>v. Smerdon</i> .....                        | 190                               |
| <i>Foskett v. Kaufman</i> .....                   | 303, 304, 306, 321, 322, 324, 325 |
| <i>Foster and others v. Medwin</i> .....          | 403–405, 408                      |
| <i>Fowle v. Trevor</i> .....                      | 150, 151, 152                     |
| <i>Fox v. Dally</i> .....                         | 148–150                           |
| —— <i>v. Davies</i> .....                         | 338, 339                          |
| —— <i>v. Shaston St. Peter, Shaftesbury</i> ..... | 338, 339, 414                     |

|   | PAGE             |
|---|------------------|
| Freeman <i>v.</i> Gainsford (re Lord Shrewsbury's Hospital) .. 6, 27, | 28, 35           |
| ——— <i>v.</i> ——— (re Sheffield Music Hall) .....                     | 39               |
| ——— <i>v.</i> Newman .....  | 257, 258         |
| French <i>v.</i> Tucker .....   | 123, 124         |
| Friend <i>v.</i> Towers .....   | 320, 321         |
| Frisby <i>v.</i> Black .....  | 81               |
| Fryer <i>v.</i> Bodenham .....  | 137, 138         |
| <br>Gadsby <i>v.</i> Barrow .....                                     | <br>93           |
| ——— <i>v.</i> Warburton .....   | 234, 235, 413    |
| Gainsford <i>v.</i> Freeman .....                                     | 86, 87, 90       |
| Gale <i>v.</i> Chubb .....  | 168, 169         |
| Garbutt <i>v.</i> Trevor .....  | 82—85            |
| Gaydon <i>v.</i> Bencraft .....                                       | 170, 171         |
| Gilham <i>v.</i> Harris .....   | 131, 132, 134    |
| Godsell <i>v.</i> Innous .....  | 240, 241         |
| Grant <i>v.</i> Pagham .....  | 388—390          |
| Green <i>v.</i> Mephram .....   | 293, 294, 396    |
| Greenway <i>v.</i> Batchelor (Aldridge's case) .....                  | 162              |
| ——— <i>v.</i> ——— (Jacob's case) .....                                | 163              |
| ——— <i>v.</i> Hockin .....  | 50               |
| Gregory <i>v.</i> Turner .....  | 414, 438         |
| Grover <i>v.</i> Bontems .....  | 424              |
| <br>Hains <i>v.</i> Cuthbertson .....                                 | <br>176, 353     |
| Hall <i>v.</i> Cropper .....  | 295—297          |
| ——— <i>v.</i> Lewis .....   | 29, 30           |
| Hamilton <i>v.</i> Bass .....   | 15               |
| Hanks <i>v.</i> Jones .....   | 348, 349         |
| Hannaford <i>v.</i> Whiteway .....                                    | 276, 277         |
| Hargreaves <i>v.</i> Hopper .....                                     | 383, 386         |
| Harris <i>v.</i> Amery .....  | 135, 136         |
| Harrison <i>v.</i> Carter (Cook's case) .....                         | 387, 388         |
| ——— <i>v.</i> ——— (Port's case) .....                                 | 387, 388         |
| Hayden <i>v.</i> Twerton .....  | 7, 8, 58         |
| Hayward <i>v.</i> Scott .....   | 390, 391         |
| Heartley <i>v.</i> Banks .....  | 28, 35, 121, 122 |
| Heath <i>v.</i> Haynes .....  | 119, 120         |
| Heelis <i>v.</i> Blain .....  | 35, 36, 75       |

|  | PAGE               |
|--|--------------------|
| Henrette v. Booth .....                  | 127, 177           |
| Herbert v. Chatham .....                 | 194—197            |
| Hersant v. Halse .....                   | 182, 183, 222      |
| Hickton v. Antrobus .....                | 237                |
| Hinde v. Chorlton .....                  | 42, 43, 50         |
| Hinton v. Hinton .....                   | 262                |
| —— v. Wenlock .....                      | 412                |
| Hitchins v. Brown .....                  | 226, 417           |
| Hodges v. Harris .....                   | 132, 133, 134, 135 |
| Honeybone v. Hambridge .....             | 394, 395           |
| Hornsby v. Robson .....                  | 241, 242, 243      |
| Howitt v. Stephens .....                 | 312, 313           |
| Hoyland v. Bremner .....                 | 370                |
| Huckle v. Piper .....                    | 96                 |
| Huggett v. Lewis .....                   | 275, 276           |
| Hughes v. Chatham .....                  | 99, 100, 330       |
| James v. Howarth .....                   | 297, 298           |
| —— v. Smith .....                        | 245                |
| Jarvis v. Peele .....                    | 169, 170, 430      |
| —— v. The Town Clerk of Shrewsbury ..... | 430                |
| Jeffery v. Kitchener .....               | 165, 166           |
| Jessop v. Ipswich .....                  | 434                |
| Jolliffe v. Rice .....                   | 113, 114           |
| Jones v. Bubb .....                      | 346                |
| —— v. Friend .....                       | 325                |
| —— v. Innous .....                       | 240, 241           |
| —— v. Jones .....                        | 247, 248, 315      |
| —— v. Marshall .....                     | 425, 440           |
| —— v. Pritchard .....                    | 250                |
| —— v. Reeve .....                        | 407, 408           |
| Judson v. Luckett .....                  | 311, 337, 338      |
| Kirby v. Biffen .....                    | 154, 157—159       |
| Kirton v. Dear .....                     | 46                 |
| Knowles v. Brooking .....                | 266, 267, 268      |
| Lambert v. St. Thomas, New Sarum .....   | 239                |
| Lawe v. Maillard .....                   | 449                |
| Lee v. Bradford .....                    | 367, 368           |
| —— v. Hutchinson .....                   | 12                 |
| Leonard v. Alloways .....                | 223, 253           |

|                                      | PAGE                    |
|--------------------------------------|-------------------------|
| Lewis <i>v.</i> Evans .....          | 256, 257                |
| —— <i>v.</i> Roberts .....           | 244                     |
| Little <i>v.</i> Penrith .....       | 359, 360                |
| Lowcock <i>v.</i> Broughton .....    | 35, 74, 75              |
| Lowry <i>v.</i> Collard .....        | 190, 191                |
| Luckett <i>v.</i> Bright .....       | 107, 108                |
| —— <i>v.</i> Gilder .....            | 433, 434                |
| —— <i>v.</i> Gollop .....            | 433, 434                |
| —— <i>v.</i> Knowles .....           | 310                     |
| —— <i>v.</i> Voller .....            | 433, 434                |
| Lynch <i>v.</i> Wheatley .....       | 323                     |
| McGarrill <i>v.</i> Whitehaven ..... | 391—393                 |
| McGowan <i>v.</i> Coleman .....      | 190                     |
| McKillop <i>v.</i> Griffith .....    | 71, 72, 73              |
| McQuillan <i>v.</i> Solomon .....    | 191—194                 |
| Marshall <i>v.</i> Bown .....        | 369, 370                |
| Mashiter <i>v.</i> Dunn .....        | 378, 379                |
| Mason <i>v.</i> Bennett .....        | 347, 348                |
| —— <i>v.</i> Harris .....            | 132, 134                |
| Mather <i>v.</i> Allendale .....     | 315, 316                |
| Medwin <i>v.</i> Streeter .....      | 353, 354                |
| Melbourne <i>v.</i> Greenfield ..... | 235, 243, 244, 253, 267 |
| Meyler <i>v.</i> Metcalfe .....      | 121                     |
| Mills <i>v.</i> Cobb .....           | 41, 68                  |
| Minifie <i>v.</i> Banger .....       | 328, 329                |
| Moffit <i>v.</i> Collard .....       | 190                     |
| Moger <i>v.</i> Escott .....         | 357, 358                |
| Moon <i>v.</i> Andrew .....          | 290, 291                |
| Moore <i>v.</i> Carisbrooke .....    | 16                      |
| —— <i>v.</i> Salford .....           | 438, 439                |
| Moorhouse <i>v.</i> Gilbertson ..... | 18, 19                  |
| Morfee <i>v.</i> Novis .....         | 154, 156, 157           |
| Morgan <i>v.</i> Parry .....         | 396                     |
| Mortlock <i>v.</i> Farrer .....      | 294, 295, 296           |
| Morton <i>v.</i> Palmer .....        | 161                     |
| Moss <i>v.</i> Lichfield .....       | 332                     |
| Muldowney <i>v.</i> Malcolmson ..... | 354                     |
| Murray <i>v.</i> Thorniley .....     | 7, 58, 70               |
| Myers <i>v.</i> Perigal .....        | 5                       |
| Nettleton <i>v.</i> Burrell .....    | 413, 414                |
| Newton <i>v.</i> Crowley .....       | 374                     |



|   | PAGE               |
|---|--------------------|
| Newton <i>v.</i> Hargreaves .....               | 372, 373           |
| —— <i>v.</i> Mobberley .....                    | 373, 374, 418, 428 |
| Nicholls <i>v.</i> Bulwer .....                 | 316, 317           |
| Nicks <i>v.</i> Field .....                     | 167, 168, 416, 423 |
| Norris <i>v.</i> Hastings (Andrew's case) ..... | 349                |
| —— <i>v.</i> —— (Imeson's case) .....           | 350                |
| —— <i>v.</i> Pilcher .....                      | 251, 252, 271      |
| Norrish <i>v.</i> Harris .....                  | 135                |
| Norton <i>v.</i> Salisbury .....                | 422, 423           |
| Noseworthy <i>v.</i> Buckland-in-the-Moor ..... | 255, 256           |
| Nunn <i>v.</i> Denton .....                     | 103, 414           |
| Nuth <i>v.</i> Tamplin .....                    | 180, 181           |

|                                     |          |
|-------------------------------------|----------|
| O'Flaherty <i>v.</i> Chambers ..... | 190      |
| Oldham .....                        | 397      |
| Onions <i>v.</i> Bowdler .....      | 312      |
| Oram <i>v.</i> Cole .....           | 284, 285 |
| Ormerod <i>v.</i> Chadwick .....    | 338      |
| O'Sullivan <i>v.</i> Collard .....  | 190      |

|   |                                  |
|---|----------------------------------|
| Paddon <i>v.</i> Whiteway .....                     | 277, 278                         |
| Palmer <i>v.</i> Allen .....                        | 114, 115, 416, 420, 425—427      |
| Pariente <i>v.</i> Lockett .....                    | 336                              |
| Passingham <i>v.</i> Pitty ....                     | 19, 20                           |
| Peele <i>v.</i> Downes .....                        | 99                               |
| —— <i>v.</i> Hinton .....                           | 410                              |
| —— <i>v.</i> Williams .....                         | 99                               |
| Perowne <i>v.</i> Peters .....                      | 177, 178                         |
| Perry <i>v.</i> Shipway .....                       | 27                               |
| Petherbridge <i>v.</i> Ash .....                    | 421                              |
| Phillips <i>v.</i> Salmon .....                     | 61, 62                           |
| Pickard <i>v.</i> Baylis .....                      | 181, 231—233                     |
| Piercy <i>v.</i> Maclean .....                      | 142—144                          |
| Pitts <i>v.</i> Smedley .....                       | 13, 104, 105, 106, 111, 125, 415 |
| Points <i>v.</i> Attwood .....                      | 272—274                          |
| Porrett <i>v.</i> Lord .....                        | 303, 304, 325                    |
| Porter and others <i>v.</i> Clarke and others ..... | 27                               |

|   | PAGE                         |
|---|------------------------------|
| Powell <i>v.</i> Boraston .....               | 113, 130, 131                |
| —— <i>v.</i> Bradley .....                    | 383, 386                     |
| —— <i>v.</i> Caswell .....                    | 374, 375, 414, 429           |
| —— <i>v.</i> Farmer .....                     | 129                          |
| —— <i>v.</i> Guest .....                      | 128                          |
| —— <i>v.</i> Jones .....                      | 343, 344                     |
| —— <i>v.</i> Price .....                      | 110                          |
| —— <i>v.</i> Pugh .....                       | 344                          |
| Pownall <i>v.</i> Dawson .....                | 117                          |
| —— <i>v.</i> Hood .....                       | 414, 430, 431                |
| Pring <i>v.</i> Estcourt .....                | 416, 419, 421, 422, 423, 424 |
| Prior <i>v.</i> Waring .....                  | 4, 136, 159, 427, 432        |
| Proctor <i>v.</i> Annison .....               | 82                           |
| Proudfoot <i>v.</i> Barnes .....              | 287                          |
| Prout <i>v.</i> Harris .....                  | 133, 134                     |
| Pruen <i>v.</i> Cox .....                     | 236                          |
| <br>Rawlins <i>v.</i> Bremner .....           | <br>372                      |
| —— <i>v.</i> West Derby .....                 | 217, 417                     |
| Reg. <i>v.</i> Ireland .....                  | 381                          |
| —— <i>v.</i> Mayor of Belfast .....           | 121                          |
| —— <i>v.</i> The Justices of Salop .....      | 422                          |
| Rendlesham, Lord <i>v.</i> Haward .....       | 386                          |
| —— Lord <i>v.</i> Tabor .....                 | 386                          |
| Rex <i>v.</i> Newcomb .....                   | 338                          |
| Riley <i>v.</i> Crossley .....                | 372                          |
| Roberts <i>v.</i> Drewitt .....               | 33, 34                       |
| —— <i>v.</i> Murphy .....                     | 199—203                      |
| —— <i>v.</i> Percival .....                   | 34, 35, 59, 138, 253         |
| Robinson <i>v.</i> Ainge .....                | 44                           |
| —— <i>v.</i> Dunkley .....                    | 15, 30, 31, 52               |
| Robson <i>v.</i> Brown .....                  | 4, 136, 432                  |
| Rogers <i>v.</i> Harvey .....                 | 120, 121                     |
| —— <i>v.</i> Lewis .....                      | 339, 357                     |
| Rolleston <i>v.</i> Cope .....                | 10, 13, 15, 30, 51, 52       |
| <br>Sale, In re .....                         | <br>222, 223—225, 442, 443   |
| Salisbury, Marquis of <i>v.</i> Bontems ..... | 385                          |

|  | PAGE                   |
|--|------------------------|
| Salisbury, Marquis of <i>v.</i> Bulwer ..... | 385                    |
| ——— <i>v.</i> South Mims .....               | 385                    |
| Samuel <i>v.</i> Hitchmough .....            | 281                    |
| Sanders <i>v.</i> Searson .....              | 97, 98                 |
| ——— <i>v.</i> Smith .....                    | 65, 66                 |
| Sandwich case, The .....                     | 382                    |
| Sargent <i>v.</i> Rodd .....                 | 298, 299               |
| Score <i>v.</i> Huggett .....                | 104, 105, 125          |
| Scott <i>v.</i> Durant .....                 | 435, 438               |
| Sedgwick <i>v.</i> Neville .....             | 190                    |
| ——— <i>v.</i> Trevor .....                   | 246                    |
| Sheddon <i>v.</i> Butt .....                 | 412, 416, 432          |
| Sheldon <i>v.</i> Flatcher .....             | 238, 270, 271, 289     |
| Sherlock <i>v.</i> Steward .....             | 23                     |
| Sherwin <i>v.</i> Whyman .....               | 319, 441               |
| Sibbald <i>v.</i> Roderick .....             | 338                    |
| Simey <i>v.</i> Dixon .....                  | 254, 255               |
| ——— <i>v.</i> Marshall .....                 | 56, 57                 |
| Simpson <i>v.</i> Wilkinson .....            | 2, 3, 34, 35, 138, 409 |
| Smerdon <i>v.</i> Tucker .....               | 123, 124               |
| Smith <i>v.</i> Foreman .....                | 95                     |
| ——— <i>v.</i> Hall .....                     | 381—383                |
| ——— <i>v.</i> Holloway .....                 | 247                    |
| ——— <i>v.</i> Huggett .....                  | 245, 278, 279          |
| ——— <i>v.</i> James .....                    | 245                    |
| ——— <i>v.</i> ——— .....                      | 248                    |
| ——— <i>v.</i> Lancaster .....                | 139, 140               |
| ——— <i>v.</i> Seghill .....                  | 330, 356, 364          |
| ——— <i>v.</i> Woolston .....                 | 63                     |
| Speight, In re .....                         | 449                    |
| Spencer <i>v.</i> Harrison .....             | 64, 65                 |
| Spittall <i>v.</i> Brook .....               | 215, 216               |
| Stanton <i>v.</i> Jeffery .....              | 166                    |
| Steele <i>v.</i> Bosworth .....              | 32                     |
| Stothard <i>v.</i> Purcell .....             | 190                    |
| Stowe <i>v.</i> Jolliffe .....               | 391                    |
| Stribling <i>v.</i> Halse .....              | 207—209                |

|                               |         |
|-------------------------------|---------|
| Tanner <i>v.</i> Carter ..... | 209—211 |
| ——— <i>v.</i> Castor .....    | 209—211 |

|   | PAGE                    |
|---|-------------------------|
| Taylor <i>v.</i> Meads .....  | 72                      |
| —— <i>v.</i> St. Mary Abbots, Kensington .....                        | 178, 179                |
| Tepper <i>v.</i> Nicholls .....                                       | 36—38, 53, 248          |
| Thackway <i>v.</i> Pilcher .....                                      | 288, 289                |
| Thompson <i>v.</i> Ward .....   | 144, 145, 146           |
| Thorniley <i>v.</i> Aspland .....                                     | 372                     |
| Tilston <i>v.</i> Bott .....  | 190                     |
| Toms <i>v.</i> Cuming .....   | 261, 262                |
| —— <i>v.</i> Lockett .....  | 104, 111, 125           |
| Townshend <i>v.</i> St. Mary-le-bone .....                            | 317, 318                |
| Trenfield <i>v.</i> Lowe .....  | 44—46                   |
| Trevor <i>v.</i> Fowle .....  | 151, 152                |
| Trotter <i>v.</i> Trevor (Anderson's case) .....                      | 348, 349                |
| —— <i>v.</i> —— .....   | 380, 381                |
| —— <i>v.</i> Walker (Aylan's case) .....                              | 245, 246                |
| —— <i>v.</i> —— (Hallam's case) .....                                 | 246                     |
| —— <i>v.</i> Watson .....   | 88—90                   |
| Tudball <i>v.</i> Bristol .....                                       | 259, 289                |
| <br>Vance's case .....  | <br>87                  |
| <br>Wadmore <i>v.</i> Aries .....                                     | <br>53                  |
| —— <i>v.</i> Dear .....   | 38, 53                  |
| Walker <i>v.</i> Payne .....  | 310                     |
| Wallis <i>v.</i> Birks .....  | 47                      |
| Wanklyn <i>v.</i> Woollett .... 8, 151, 168, 233, 238, 297, 304, 419, | 424, 425, 435           |
| Wansey <i>v.</i> Perkins (Hill's case) .....                          | 104, 106, 125, 416, 430 |
| —— <i>v.</i> —— (Lockey's case) .....                                 | 333                     |
| —— <i>v.</i> —— (Quigley's case) .....                                | 263, 264                |
| —— <i>v.</i> St. Peter-le-Poor .....                                  | 415                     |
| Warburton <i>v.</i> Denton .....                                      | 90, 91                  |
| Watson <i>v.</i> Black .....  | 75—81                   |
| —— <i>v.</i> Cotton .....   | 112, 113, 129, 131      |
| —— <i>v.</i> Pitt .....   | 271, 272                |
| Webb <i>v.</i> Aston, near Birmingham .....                           | 410                     |
| —— <i>v.</i> Aston .....  | 86                      |
| Webster <i>v.</i> Ashton-under-Lyne (Hadfield's case) ....            | 58, 59                  |

|   | PAGE                         |
|---|------------------------------|
| Webster <i>v.</i> Ashton-under-Lyne (Orme's case) . . . . . | 57, 58                       |
| Wells <i>v.</i> Stanforth . . . . .                         | 401, 402                     |
| West <i>v.</i> Robson . . . . .                             | 7, 21—23, 68, 414, 432, 433  |
| White <i>v.</i> Pring . . . . .                             | 116, 117, 416, 429, 430, 434 |
| Whithorn <i>v.</i> Thomas . . . . .                         | 164, 165, 410, 413           |
| Whitmore <i>v.</i> Bedford . . . . .                        | 99, 410                      |
| Wills <i>v.</i> Adey . . . . .                              | 267, 268                     |
| Wilson <i>v.</i> Roberts . . . . .                          | 126                          |
| —— <i>v.</i> Salford . . . . .                              | 438, 439                     |
| Wood <i>v.</i> Hopper . . . . .                             | 60                           |
| —— <i>v.</i> Willesden . . . . .                            | 309                          |
| Woollett <i>v.</i> Davis . . . . .                          | 237, 238                     |
| Wright <i>v.</i> Stockport . . . . .                        | 101, 331                     |





## TABLE OF ABBREVIATIONS.



|                        |  |
|------------------------|--|
| Ad. & E. ....          | Adolphus and Ellis (Queen's Bench) Reports.          |
| Alcock R. C. R. . .    | Alcock's Registry Cases Reserved (Ireland).          |
| B. & Arn. ....         | Barrow and Arnold's Election and Registration Cases. |
| Co. Litt. ....         | Coke upon Littleton.                                 |
| C. B. ....             | Common Bench Reports.                                |
| C. B., N. S. ....      | Common Bench Reports, New Series.                    |
| Com. L. R. ....        | Common Law Reports.                                  |
| De G. M. & G. . .      | De Gex, Macnaughten and Gordon's Chancery Reports.   |
| Giff. ....             | Giffard's Reports (Chancery).                        |
| H. & C. ....           | Hopwood and Coltman's Registration Cases.            |
| H. & P. ....           | Hopwood and Philbrick's Registration Cases.          |
| H. & R. ....           | Harrison and Rutherford's Reports.                   |
| Ir. Ch. Rep. ....      | Irish Chancery Reports.                              |
| Ir. C. L. R. ....      | Irish Common Law Reports.                            |
| Ir. Jur. O. S. ....    | Irish Jurist, Old Series.                            |
| Ir. R. C. L. Q. B. . . | Irish Reports, Common Law Series (Queen's Bench).    |
| Journ. ....            | Journals of the House of Commons.                    |
| Jur. ....              | Jurist Reports.                                      |
| Jur. N. S. ....        | Jurist Reports, New Series.                          |
| K. & G. ....           | Keane and Grant's Registration Cases.                |
| L. J. Ch. ....         | Law Journal Reports, Chancery.                       |
| L. J. C. P. ....       | Law Journal Reports, Common Pleas.                   |
| L. J. C. P. D. ....    | Law Journal Reports, Common Pleas Division.          |
| L. J. Q. B. D. . .     | Law Journal Reports, Queen's Bench Division.         |
| L. R. Ch. Ap. . .      | Law Reports, Chancery Appeals.                       |

|                    |  |
|--------------------|--|
| L. R. C. P. ....   | Law Reports, Common Pleas.                               |
| L. R. C. P. D. ..  | Law Reports, Common Pleas Division.                      |
| L. R. Eq. Cas. ..  | Law Reports, Equity Cases.                               |
| L. R. Q. B. ....   | Law Reports, Queen's Bench.                              |
| L. R. Q. B. D. ..  | Law Reports, Queen's Bench Division.                     |
| L. R. W. N. ....   | Law Reports, Weekly Notes.                               |
| L. T. ....         | Law Times.   |
| L. T., N. S. ....  | Law Times, New Series.                                   |
| Lutw. ....         | Lutwyche's Registration Cases.                           |
| M. & G. ....       | Manning and Granger's (Common Pleas) Reports.            |
| M. & W. ....       | Meeson and Welsby's (Exchequer) Reports.                 |
| Meriv. ....        | Merivale's (Chancery) Reports.                           |
| N. & P. ....       | Neville and Perry's Reports.                             |
| O'M. & H. ....     | O'Malley and Hardcastle's Reports of Election Petitions. |
| Scott N. R. ....   | Scott's New (Common Pleas) Reports.                      |
| Scott Fox's Reg.   |  |
| Cas. ....          | Scott Fox's Registration Cases.                          |
| Sim. ....          | Simon's Reports (Chancery).                              |
| Stark. N. P. C. .. | Starkie's Nisi Prius Cases.                              |
| W. R. ....         | Weekly Reporter.   |

DIGEST OF  
PARLIAMENTARY AND MUNICIPAL  
Registration Cases.

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COUNTY FRANCHISE—FREEHOLDS.

*Inmates of Jesus Hospital, Rothwell, being removable at the will of the governors, have no vote in respect of the premises they occupy.*

NORTH NORTHAMPTONSHIRE. D. and B. claimed votes each in respect of a freehold interest in Jesus Hospital, Rothwell.

They held appointments, D. as principal, and B. as ordinary inmate, of the hospital, and as such were severally provided with premises therein, the premises of each being of more than the annual value of 40s.

By letters patent, dated 38 Eliz., the hospital was incorporated, and its governors were empowered by the charter of incorporation to appoint, expel, and remove, the principal and inmates "as often as should seem fit to them or the greater number of them."

The governors were further empowered by the charter to make bye-laws, which they accordingly did.

Such bye-laws distinctly recognized the existence of the general power of expulsion and removal contained in the terms of the charter.

No case of expulsion was on record.

Held, that the claimants' estate, being determinable at the discretion of the governors, was insufficient to give them the county franchise: *Davis v. Waddington*, 7 M. & G. 37; 8 Scott, N. R. 807; 1 Lutw. 159; 14 L. J. C. P. 45; 8 Jur. 1142.

*Burleigh Hospital (origin unknown) governed by rules purporting to be of a date anterior to 39 Eliz. c. 5, held, in the absence of evidence to the contrary, to be presumably unincorporated. Bedesmen of that institution have a freehold estate in their rooms respectively, and are consequently entitled to the franchise.*

NORTH NORTHAMPTONSHIRE. A., and twelve others, were on the register of voters, each in respect of a "freehold tenement or room."

They were bedesmen of Burleigh Hospital, and each occupied a room therein of the annual value of £4.

The hospital was governed by a printed, unsigned, copy of certain ordinances, bearing date 20th August, 1597, *i. e.*, prior to 39 Eliz. c. 5 (*a*).

There was no enrolment under that Act, nor did any letters patent exist. There was no trace of any common seal, nor could any original rules, charter, deed, or other document relating to the hospital, be found.

The ordinances referred to certain feoffees and their heirs, although none were known to exist.

By one of the ordinances, no one is to be admitted a bedesman who is subject to certain vices and infirmities. By others, any member becoming so affected, persistently indulging in certain forbidden pursuits, or refusing obedience to the rules of the hospital generally, is liable to be displaced. It was further ordained that each poor man should have a separate room for his life, or until displaced.

There was no evidence of a displacement having ever occurred.

(*a*) This statute (the date of the commencement of which was 24th October, 1597), after reciting that no hospital, house of correction, or abiding place, could be incorporated but by the crown, or under licence from the crown by letters patent, enacted, that hospitals might be founded by deed enrolled in chancery, and that such hospitals should be incorporated and have perpetual succession, with a common seal.



The bedesmen jointly with a warden managed the property, letting that portion of the building not occupied by themselves, and dividing the rent between them.

The revising barrister decided that, under the circumstances, a legal foundation for the hospital might be presumed, not necessarily investing the bedesmen with a corporate character; and that the bedesmen had a separate freehold estate in their rooms respectively, which entitled them to vote.

The court affirmed the decision: *Simpson v. Wilkinson*, 7 M. & G. 50; 8 Scott, N. R. 814; 1 Lutw. 168; 14 L. J. C. P. 49; 8 Jur. 1126; B. & Arn. 308.

*Partners in possession (through their committee of management) of freehold land purchased by them, and vested in trustees for the purposes of the partnership, were held to have an equitable interest in the land by reason of the profits they derived from the trade carried on by them on such land.*

WEST RIDING OF YORKSHIRE. A., B., and thirty-five other persons claimed in respect of freehold shares in a mill, houses, and land.

The claimants and many others formed a partnership to build, and carry on their respective trades in, a mill. Money was subscribed by all the partners, part of which was appropriated to the purchase of freehold land, which was conveyed to trustees in fee. Another part was employed in the erection of a mill on such land, and the remainder in buying machinery, &c., for the mill.

By a general partnership deed, it was declared that the trustees should stand seised and possessed of all the property, real and personal, of the partnership, upon trust, for the benefit of themselves and their partners, as part of their partnership joint stock in trade.

It was further declared that the land and buildings

purchased and erected by means of the partnership moneys should be deemed personal, and not real, estate, and be held in trust for the partners as part of their partnership joint stock in trade.

There was a provision in the deed empowering the trustees to mortgage the partnership property for the purposes of the partnership, when directed to do so by three-fourths in value of the partners.

The mill having been built, the business of fulling cloth was carried on therein, and the profits divided among the partners.

There was a committee of management appointed by a general meeting of shareholders; and this committee were in occupation of the mill and premises, and employed servants to work it.

The trustees had, with the consent of the shareholders, borrowed money for the purposes of the mill, but, instead of mortgaging the partnership property, or any part thereof, they had given bonds and notes in their own names only for the money so borrowed.

The questions stated for the court were, in substance:—

1. Whether the claimants had, by virtue of their respective shares, an interest in the real property of the company.
2. Whether, assuming the claimants had such an interest, the money borrowed by the trustees on the bonds and notes had the effect of a charge on the real property of the company.

The latter question was stated to be material as affecting the value of the shares, and consequent right of voting, of A. and B. only (*a*).

Held, that the claimants had an equitable interest in the partnership land to the extent of their respective shares, and that the clause declaring that such

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(*a*) Quære whether this was a properly consolidated appeal. See *Prior v. Waring*, 5 C. B. 56, *post*, “Practice”; and *Robson v. Brown*, 1 C. B., N. S. 34, *post*, “Practice.”

land should be considered as personalty had reference merely to the regulation of the property for the purposes of the partnership, and was not inconsistent with an equitable seisin of the freehold in the partners (*a*). Also that the money borrowed by the trustees had not the effect of a mortgage on the shares.

Therefore, that the claimants, being in possession of the partnership property by their committee of management, and having respectively shares of sufficient value, were entitled to the franchise (*b*): *Barter v. Newman*, 8 Scott, N. R. 1019; 1 Lutw. 287; 14 L. J. C. P. 193; 9 Jur. 829; S. C., nom. *Barter v. Brown*, 7 M. & G. 198.

*Mere receipt of realty profits of adequate value, without vested right to receive the same, insufficient to qualify.*

NORTH NOTTINGHAMSHIRE. Inmates of Shrewsbury Hospital, Sheffield, claimed to be registered, each in respect of an equitable life interest in lands and corn rents arising from lands.

The hospital was founded in 1673 by the Duke of Norfolk, who, in 1680, conveyed certain lands to trustees for the purpose of maintaining the hospital, and paying the inmates and pensioners according to the constitutions of the founder.

The hospital was governed by these constitutions, and by certain private acts of parliament.

Each of the claimants occupied a room in the

(*a*) TINDAL, C. J., in delivering the judgment of the court, said, "We think it may be considered as a very doubtful question, whether the private agreement of parties, or any authority short of that of an act of parliament, can deprive the owners of the freehold of the right of voting for members of parliament, which is a right inherent in the owners of the freehold, not for their own benefit, but for that of the community of which they form part."

(*b*) See the observations of Lord Chancellor ST. LEONARDS on the above case in his judgment in *Myers v. Perigal*, 2 De G. M. & G. 622; and 22 L. J. Ch. 434. See also per ERLE, C. J., in *Bennett v. Blain*, H. & P. 46, 47.

hospital for life (a), and, besides an allowance of coals and clothing, received a weekly stipend, fixed originally at 2s. 6d., but afterwards increased to 10s.

By one of the constitutions it was ordained, that whenever there remained in the treasury of the hospital a surplus of more than £100, after the payment of all necessary expenses, such surplus should be distributed among the pensioners.

By a subsequent private act of parliament it was enacted that, instead of the surplus revenues being distributed among the original number of pensioners, additional pensioners should be chosen, and the trustees of the hospital were empowered and directed from time to time to add as many pensioners as the revenues would allow, and to pay such fixed weekly stipends as they should think fit, "and to lessen, increase, vary, change, and alter such weekly stipends as they should deem requisite, so that the stipend should at no time be reduced below 3s. 6d. a week."

The case found that 10s. a week, the sum which the pensioners were in fact severally receiving, was, with the additional value of the coals and clothing, sufficient to confer the franchise, but that 3s. 6d. a week, with such addition, would be insufficient.

Held, that the claimants (assuming them to have an equitable interest in land) had no absolute right to more than 3s. 6d. a week, besides the coals and clothing, and were, therefore, not entitled to be registered.

The lands from which the revenues of the above-named hospital were derived were situate in Yorkshire and North Nottinghamshire, and they formed one general fund, out of which the inmates received their stipends and allowance, without distinction as to the Yorkshire and Nottinghamshire property. Semble, that the value of the profits issuing from the

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(a) The governors of the hospital had the power of expulsion, but no question as to the freehold nature of the interest was reserved. This point was decided in *Freeman v. Gainsford*, 11 C. B., N. S. 68, *post*, pp. 27, 28.

two counties was apportionable (a) : *Ashmore v. Lees*, 2 C. B. 31; 1 Lutw. 337; 15 L. J. C. P. 65; 9 Jur. 1109.

*Grantee of rent-charge (b) at common law not entitled to be registered, unless he has had, for requisite period, a possession in fact as contradistinguished from a possession in law.*

NORTH CHESHIRE. A. and B. were on the list of voters, each in respect of an "undivided share of freehold rent-charge."

The rent-charge (annual value £6 3s.) was conveyed to A. and B., and their heirs, by a deed dated 29th January, 1845, having been created by a deed dated 28th January, 1845, whereby the first payment was to become due 1st January, 1846.

Held, that the words "actual possession" in 2 Will. IV. c. 45, s. 26, meant a possession in fact, as contradistinguished from a possession in law, and, therefore, that A. and B., not having been in receipt of the rent for six calendar months next previous to 31st July, 1845, were not entitled to be registered in that year: *Murray v. Thorniley*, 2 C. B. 217; 1 Lutw. 496; 15 L. J. C. P. 155; 10 Jur. 270; B. & Arn. 742.

*Assignee of rent-charge (b) by virtue of a conveyance operating at common law not entitled to be registered, unless he has been in actual possession thereof for six months next previous to 31st July preceding the revision.*

EAST SOMERSETSHIRE. Fifty persons claimed to be registered, each in respect of an undivided share of a freehold rent-charge.

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(a) See *West v. Robson*, 3 C. B., N. S. 422, *post*.

(b) The rent-charge qualification was, with some exceptions, and with a saving of existing rights, abolished by the Representation of the People Act, 1884; see sections 4 and 10 of that Act.



The rent-charge (£100 per annum) was originally created in 1838, in favour of one N., his heirs and assigns. It had been regularly paid up to 29th September, 1845. On 19th January, 1846, N. conveyed all his interest in the said rent-charge to T., F., and J. (being three of the claimants), their heirs and assigns; and, upon the same day, an indenture was executed between the said T., F., and J., and forty-seven other persons (the remainder of the claimants), whereby it appeared that T., F., and J., held the rent-charge in trust for themselves and the forty-seven other persons, and their respective heirs and assigns as tenants in common.

The first payment of rent which became due after the execution of the conveyance was for the half year ending 25th March, 1846, and was paid to the parties entitled thereto (the claimants) on 29th April following.

Held, that the claimants had not been in the "actual possession" of the rent-charge for the six months next previous to the last day of July, within 2 Will. IV. c. 45, s. 26, and were, therefore, not entitled to be registered: *Hayden (a) v. Twerton*, 4 C. B. 1; 1 Lutw. 510; 16 L. J. C. P. 88; 10 Jur. 950.

*Vote conferred by customary freehold.*

WESTMORELAND. The appellant was on the list of claimants in respect of "one-third share of burgage houses and garden."

He was one of the owners of certain houses within the township and within the limits of the ancient borough of Kirkby-in-Kendal. The houses were of burgage tenure, and the appellant's interest in their annual value exceeded 40s., but was less than £10.

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(a) The heading of the above appeal (4 C. B. 1) was "James George Hayden on behalf of Thomas Serel;" see *Wanklyn v. Woollett*, 4 C. B. 86, and the note (a) to that case, *post*, "Practice."

The burgage tenements within the borough (of which there were many) had always been conveyed by deed of grant, or bargain and sale, without livery of seisin, and without a lease for a year, or any enrolment. No surrender or admittance was, however, required, nor was any fine paid on descent or alienation. There was no record of courts baron, or customary courts, having ever been held within the township, though a tradition existed that such courts were formerly held, and that upon every change of a tenant of a burgage tenement, a "God's-penny" was paid, but no fine.

The mode of descent of such burgage tenements followed the common law, except that, instead of females inheriting as co-parceners, the eldest inherited to the exclusion of the rest.

The custom with regard to *femes covert* had always been, that husband and wife have conveyed the burgage tenements of the wife, without any separate examination of the latter; and that, upon the death of a person dying seised of a burgage tenement, and leaving a widow, such widow, instead of her dower at common law, had the whole of the burgage tenements of which her husband died seised, and retained them during her chaste viduity.

The burgage tenements were devisable as ordinary freeholds, and they were held subject only to the payment of certain fixed annual rents payable to some individual.

The owners of these burgage tenements voted in respect of them at the county elections in 1818, 1820, 1826, and 1832.

Held, that in the absence of evidence showing the freehold to be in any one else, it must (notwithstanding the peculiarity of some of the incidents of tenure specified in the case) be presumed to be in the appellant, and, the value being sufficient, he was therefore entitled to be registered: *Busher v. Thompson*, 4 C. B. 48; 1 Lutw. 551; 16 L. J. C. P. 57; 11 Jur. 45.

*Periodical payments (a) to building society, a charge reducing annual value of freehold as against mortgagor in possession.*

SOUTH ESSEX. B. was on the list of freehold voters for the parish of Springfield.

He was a member of a building society established under 6 & 7 Will. IV. c. 32, and he held therein one share and a half, for which he had to pay 15s. a month to the society (£9 a year).

More than six months before the 31st of July, 1848, he purchased in fee simple a cottage and garden in Springfield, of the annual value of £8.

The purchase-money (£65) was advanced by the society, to whom B. mortgaged the premises, to secure the monthly payments becoming due on his shares.

In default of such payments for three successive months, the society was entitled, under the mortgage, to enter and retain possession of the premises until payment of arrears. But B. was to enjoy the property until such default, and he had never been a defaulter in making his payments.

The revising barrister was of opinion that the annual value of the property (£8) was reduced by the charge of 15s. a month below the amount of 40s. a year; and he expunged B.'s name from the list.

The court, affirming the decision, held, that the monthly payments were a "charge" within 8 Hen. VI. c. 7, and that, the annual value of the property being reduced thereby below 40s., B., although a mortgagor in possession (6 Vict. c. 18, s. 74), was not entitled to the franchise: *Copland v. Bartlett*, 6 C. B. 18; 2 Lutw. 102; 18 L. J. C. P. 50; 13 Jur. 127; 12 L. T. 243.

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(a) In this case no distinction was drawn between periodical payments of interest on the purchase-money, and periodical payments in reduction of the purchase-money itself. It is now settled that of these payments the former alone are a charge to be deducted in ascertaining the annual value of the property: see *Rolleston v. Cope*, L. R. 6 C. P. 292, *post*, pp. 51, 52.

*Owner and occupier of freehold land (of clear annual value of 40s.) within a parliamentary borough, not deprived of county franchise by reason of his occupying, as tenant, a house (by itself of less, but together with the land of more, than the annual value of £10) within same borough.*

NORTH WARWICKSHIRE. B. claimed to be inserted in the list of voters in respect of "freehold building land."

The claimant was the *owner* and occupier of freehold land of the clear annual value of 40s., in the parish of Aston, and also occupied, as *tenant*, a house (value less than £10 a year) in the parish of Birmingham at a distance from the land.

Both house and land were within the parliamentary borough of Birmingham, and, taken together, were of sufficient value to give a vote for the borough.

Held, that as B. occupied the land as *owner* and the house as *tenant*, the value of the land could not be added to that of the house so as to qualify him for a borough vote under 2 Will. IV. c. 45, s. 27 (a), and, consequently, that he was entitled to be registered for the county in respect of the land: *Burton v. Aston*, 8 C. B. 7; 2 Lutw. 143; 19 L. J. C. P. 28; 14 L. T. 272.

*Owner and occupier of freehold land (of clear annual value of 40s.) within a parliamentary borough, not deprived of county franchise by reason of his occupying, as tenant, a house (of clear annual value of £10) within same borough.*

NORTH WARWICKSHIRE. C. claimed to be inserted in the list of voters in respect of "freehold building land."

The claimant *owned* and occupied freehold land of the clear annual value of 40s., in the parish of Aston, and also occupied, as *tenant*, a house (worth more than £10 a year) in the parish of Birmingham at a

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(a) See note (b), *post*, on p. 103.

distance from the land. Both house and land were within the parliamentary borough of Birmingham.

Held, that as C. occupied the land *as owner*, and the house *as tenant*, he did not come within section 24 of 2 Will. IV. c. 45, as explained by section 27 of that Act, and consequently, was entitled to be registered for the county in respect of the land: *Capel v. Aston*, 8 C. B. 1; 2 Lutw. 143; 19 L. J. C. P. 28; 14 L. T. 272.

*Interest on a loan, the repayment of which is secured by mortgage of land, a charge in deduction of value of the land, although such interest be not secured by the mortgage.*

EAST SURREY. The respondent was mortgagor in possession of certain freehold land, which was of the annual value of £5.

He had mortgaged the estate in 1846, to secure the repayment of a loan of £100.

The mortgage was expressed to be made as a security for the principal sum only, and did not extend to the interest thereon.

The time for repaying the principal sum had expired; but the respondent had regularly paid interest on the loan at 5 per cent. per annum ever since the date of the mortgage.

Held, that the interest paid by the respondent, being in fact a condition of his remaining in possession, was a "charge" within the meaning of 8 Hen. VI. c. 7, and, consequently, that the respondent, not having a freehold estate of the clear annual value of 40s. above all charges, was not entitled to the county franchise: *Lee v. Hutchinson*, 8 C. B. 16; 2 Lutw. 159; 20 L. J. C. P. 4; 16 L. T. 283.

*Sufficiency of evidence to prove a life interest, a question for revising barrister. The court draws conclusion of law from his finding.*

SOUTH NORTHAMPTONSHIRE. The respondent was on the list of voters in respect of a "freehold interest in a house and garden."



He was the minister of a dissenting congregation, and stated (a) that he held his office for life.

He occupied a house and garden, value exceeding 40s. a year, by consent of trustees, in whom the legal estate therein was vested by deed; which deed, bearing date 24th July, 1844, contained among others the following trusts:—"To permit," one D., the then minister, "for his life, if he should so long continue the minister, and after his death, or his ceasing to be the minister, to permit the minister for the time being to reside in the said premises without paying any rent."

The revising barrister having, on objection, decided in favour of the respondent's vote,

The court, assuming that the barrister was satisfied on the evidence before him that the respondent had his appointment for life, and there being no appeal on questions of fact, held, that the respondent's interest in the house and garden was a freehold interest entitling him to the franchise: *Burton v. Brooks*, 11 C. B. 41; 2 Lutw. 197; 21 L. J. C. P. 7; 16 Jur. 569.

*Periodical payments (b) to building society in respect of both principal and interest, a charge reducing annual value of freehold as against mortgagor in possession.*

NORTH WARWICKSHIRE. The appellant was objected to on the list of freehold voters for the parish of Stoke.

He was a member of, and held three shares in, a building society established under 6 & 7 Will. IV. c. 32.

(a) See *Pitts v. Smedley*, 7 M. & G. 85, and the note (a) to that case, *post*, "Practice."

(b) The law in relation to these periodical payments has now been declared to be otherwise than as here stated; see *Rolleston v. Cope*, L. R. 6 C. P. 292, *post*, pp. 51, 52.

By the rules of the society every member was bound to pay 1*s.* 6*d.* weekly for each of his shares, and, upon receiving an advance from the society, to execute to the trustees thereof a mortgage to secure to them the following payments:—

1. The amount of the member's debt to the society.
2. A premium for prior advances, equal to 5 per cent. per annum on the amount advanced until repaid.
3. Such sum, not exceeding 2*s.* 6*d.* per share per annum for incidental expenses, as the committee should fix.

The rules further required that the mortgage should reserve to the trustees a power of sale, in case the member should fail for twenty-six weekly meetings to pay his subscriptions, or observe the regulations of the society.

In October, 1850, the appellant purchased some freehold land in Stoke, value £6 per annum.

The society having advanced to him the amount of the purchase-money, expenses, &c. (£84 14*s.*), he mortgaged the land to the trustees, according to the above rules.

No default having been made in the payment of his contributions, the appellant had always been, and still was, in possession of the property.

The sum due from him to the society on 30th January, 1851, was £47 10*s.* 3*d.* Since that time the appellant's weekly payments of 4*s.* 6*d.* for his three shares, amounting to £11 14*s.* per annum, had been appropriated by the society thus:—

|   | £        | s. | d.       |
|---|----------|----|----------|
| In part liquidation of the principal                        | -        | 8  | 18 0     |
| Premium or interest on amount of principal remaining unpaid | -        | -  | - 2 10 0 |
| Incidental expenses of working the society                  | 0        | 6  | 0        |
|   | <hr/>    |    |          |
|   | £11 14 0 |    |          |
|   | <hr/>    |    |          |

It was contended before the revising barrister, that only so much of the above amount as represented interest and working expenses (£2 16s.) was to be deducted from the annual value of the property (£6).

The barrister was of opinion that the entire sum of £11 14s. was a charge upon the estate, and that the annual value thereof was thus reduced below 40s., and he therefore expunged the appellant's name from the list.

The court affirmed the decision : *Beamish v. Stoke*, 11 C. B. 29 ; 2 Lutw. 189 ; 21 L. J. C. P. 9 ; 16 Jur. 597 (a).

*Cost of landlord's repairs necessary to make premises worth 40s. a year, a charge to be deducted in ascertaining net annual value.*

EAST CUMBERLAND. B., and twenty-nine others, were on the register of voters in respect of freehold premises, which they let at a gross annual rental of £75 15s., reduced by certain necessary payments on the part of the landlords to £63 3s. 7d.

Besides the payments above referred to, the landlords expended annually sums of money averaging £4 a year in keeping the premises in repair.

The revising barrister found that the last-mentioned annual expenditure was necessary to enable the landlords to obtain the net annual rental of £63 3s. 7d., and accordingly deducted £4 therefrom in ascertaining the net annual value of the premises. As a consequence of this, he found such value to be less than 40s. a year to each landlord, and therefore expunged the names from the register.

Held, that upon the facts the names were rightly expunged : *Hamilton v. Bass*, 12 C. B. 631 ; 2 Lutw. 213 ; 22 L. J. C. P. 29 ; 17 Jur. 115 ; 20 L. T. 80.

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(a) But see *Robinson v. Dunkley*, *post*, pp. 30, 31, and *Rolleston v. Cope*, *post*, pp. 51, 52.

*Interest on mortgage upon several freeholds, apportionable.*

ISLE OF WIGHT. S. was on the register of voters in respect of freehold land of the annual value of £5.

This land, together with other land belonging to S. of the annual value of £50, which was assumed, in the absence of any statement in the case to the contrary, to be freehold and in the same county, was mortgaged for £300.

The interest payable on such mortgage was £15 a year.

Held, that the interest was apportionable, and that consequently, S. was entitled to vote: *Moore v. Carisbrooke*, 12 C. B. 661; 2 Lutw. 233; 22 L. J. C. P. 64; 17 Jur. 116; 1 W. R. 67; 20 L. T. 81, 97.

*An estate of uncertain tenure, not determinable at mere will of the lord, but which may enure for life of the party, an estate of freehold.*

SOUTH LEICESTERSHIRE. B. claimed in respect of "freehold interest in building and land."

He was a resident freeman of the borough of Leicester, and possessed an allotment of land, with buildings thereon, the land having been allotted to him under the provisions of 8 & 9 Vict. c. 6 (private).

By that Act, the resident freemen were empowered to elect from their own body a certain number of deputies to act for them in the management of the freemen's allotments.

The deputies were empowered by section 8, to take possession of certain lands (including the land in respect of which the present claim was made), and to divide the same into small allotments among the resident freemen desiring to become occupiers thereof, at a small annual rent; "the allotments" (so the

section ran), “to be held respectively by each resident freeman desiring to become the occupier, and obtaining possession thereof, so long as he shall be willing to hold the same, and shall pay the annual rent, and conform to the orders and regulations to be made from time to time by the said deputies.”

By section 15, the lands in question were vested absolutely in the deputies, in trust for the resident freemen.

Section 17 empowered the deputies to dispose of the same by sale, but section 22 provided, that no sale should be effected under the powers of the Act, without the consent of a majority of the freemen assembled at a public meeting convened for that purpose.

By section 32, a power of re-entry was reserved to the deputies, in case any freeman should be in arrear of rent for his allotment for fourteen days, or should fail to conform to the provisions of the Act, or the orders, rules, and regulations to be made by the deputies.

Held, that, as B.’s estate was not dependent for its duration on the mere will of the deputies, but was subject to their consent, *and that of the majority of the resident freemen, of whom B. himself was one*, it fell within the definition of an estate for life in Co. Litt. 42a (a), and consequently B. was entitled to be registered: *Beeson v. Burton*, 12 C. B. 647; 2 Lutw. 225; 22 L. J. C. P. 33; 20 L. T. 81—111.

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(a) “If a man grant an estate to a woman *dum sola fuerit*, or *durante viduitate*, or *quamdiu se bene gesserit*, or to a man and a woman during the coverture, or as long as the grantee dwell in such a house, or so long as he pay £10, &c., or until the grantee be promoted to a benefice, or for any like uncertain time, which time, as BRACON saith, is *tempus indeterminatum*: in all these cases, if it be of lands or tenements, the lessee hath in judgment of law an estate for life determinable, if livery be made; and if it be of rents, advowsons, or any other thing that lie in grant, he hath a like estate for life by the delivery of the deed, and in count or pleading he shall allege the lease, and conclude, that by force thereof he was seised generally for term of his life.” Co. Litt. 42a.



*Rent-charge apportionable for the purpose of the franchise.*

SOUTH LANCASHIRE. The owners in fee of a plot of land, subject to a yearly rent-charge of £14 1s. 7d., conveyed a portion of it to ten persons as tenants in common in fee, subject to the annual payment of £4 5s., as their proportion of the rent-charge on the whole property.

The grantors covenanted to pay the remainder of the rent-charge, viz., the sum of £9 16s. 7d., and to keep the grantees indemnified against all damages and expenses which might arise by reason of the non-payment thereof; and they further covenanted that the grantees, if required to pay the said sum of £9 16s. 7d., or any part of it, should have power to distrain on the residue of the plot of land (assumed to be of sufficient value to meet such distress) for so much of such last-mentioned sum as should have been required to be paid by them.

Held, that, although in point of law the portion of land so conveyed was liable to the whole rent-charge of £14 1s. 7d., yet for the purpose of the parliamentary franchise the rent-charge was apportionable, and that, as the grantees could enforce contribution for all beyond £4 5s., that amount only was to be deducted in ascertaining the value of their interest in relation to the franchise: *Barrow v. Buckmaster*, 12 C. B. 664; 2 Lutw. 235; 22 L. J. C. P. 65; 17 Jur. 117; 20 L. T. 98.

*Tenants' rates, if paid by landlord, deducted in ascertaining net annual value.*

NORTH LANCASHIRE. R. was on the register of voters in respect of certain freehold property, which he let for 40s. a year.

In pursuance of the terms of letting he paid the usual tenants' rates, which, if paid by the tenant, would have reduced the annual rent below 40s.

Held, that R. had not an estate of freehold of the



clear yearly value of 40s., and was, therefore, not entitled to the franchise: *Moorhouse v. Gilbertson*, 14 C. B. 70; 2 Lutw. 260; 23 L. J. C. P. 19; 17 Jur. 1184; 2 W. R. 58; 2 Com. L. R. 38; 22 L. T. 120.

*Capacity for profit, the criterion of value.*

EAST SURREY. A. claimed a vote in respect of freehold land, which he had bought for building purposes, and for which he had paid £150.

The land, since A.'s purchase of it, had remained wholly unoccupied, and unprofitable.

It was worth an annual ground-rent of at least £15, if let on a building lease, a sum which A. had in fact been offered for it.

But if let for any other purpose than building, its annual value would be less than 40s.

Held, that A. was entitled to be registered: *Astbury v. Henderson*, 15 C. B. 251; K. & G. 6; 24 L. J. C. P. 20; 1 Jur., N. S. 258; 3 W. R. 67; 3 Com. L. R. 164; 24 L. T. 145.

*Vote conferred by customary freehold.*

HERTFORDSHIRE. The respondent claimed a vote in respect of a house and land of which he was seised in fee in the manor of Digswell, of the annual value of more than 40s. and less than £10.

The property in question was one of several estates within the manor, which were held and conveyed as ordinary freeholds, subject to the following customary incidents:—

1. When a tenant died or aliened, the fact of such death or alienation had by custom to be presented at a subsequent court.
2. The lord had by custom a right to compel the new tenant by distress to come in and acknowledge free tenure.

It appeared from the court rolls of the manor,

that, at a court baron held in 1838, the respondent had acknowledged to hold of the lord by free deed, fealty, suit of court, and the yearly rent of 4*d.*, and that he had paid the lord 4*d.* for a relief.

Held, that the respondent was a freeholder, and entitled to be registered as a county voter: *Passingham v. Pitty*, 17 C. B. 299; K. & G. 26; 25 L. J. C. P. 4; 2 Jur., N. S. 837; 4 W. R. 122; 26 L. T. 125.

*Bare equitable right of cestui que trust to possession of land, without "actual possession or receipt of the rents and profits," insufficient to qualify under 6 Vict. c. 18, s. 74.*

WEST KENT. The appellant was on the list of voters in respect of "freehold land."

In 1853 he bought some freehold land at Forest Hill of the qualifying value, and paid the purchase-money thereof in full.

The conveyance, which was delayed at his own request, had never been executed. The land was unlet, and remained in the possession of the vendor.

Held, that the appellant not being in "actual possession, or receipt of the rents and profits," within the meaning of 6 Vict. c. 18, s. 74, was not entitled to the franchise: *Anelay v. Lewis*, 17 C. B. 316; 25 L. J. C. P. 121; K. & G. 36; 2 Jur., N. S. 164; 4 W. R. 286; 26 L. T. 273.

*Appointment as a beadsman of Daventry, not a "promotion to an office."*

SOUTH NORTHAMPTONSHIRE. Six persons "The Beadsmen of Daventry" claimed to be registered, each in respect of a freehold interest in land situate in Upper Boddington.

In 1776 the land in question was, in compliance with two wills, conveyed to trustees, on trust (*inter*

*alia*), to pay to "the six Beadsmen of Daventry," a certain portion of the rents.

The net amount of rent produced by the land and received by the trustees was £100, out of which they had, in execution of the trusts, annually for many years past paid each beadsman 50s.

The claimants had been appointed since the passing of the Reform Act, 1832. There was no evidence as to the first appointment of six beadsmen of Daventry, but from very early times the same number had been kept up, the appointment, which was for life, being vested in the corporation of Daventry, who were trustees under the above-mentioned wills.

The beadsmen had no duties or services to perform, either under the trusts, or in their character as beadsmen.

Held, that the claimants (assuming them to have an equitable interest in land) had not an estate coming to them "by promotion to an office," within the meaning of 2 Will. IV. c. 45, s. 18, and, therefore, the value being insufficient, they were not entitled to be registered: *Faulkner v. Boddington*, 3 C. B., N. S. 412; K. & G. 132; 27 L. J. C. P. 20; 6 W. R. 101; 4 Jur., N. S. 692; 30 L. T. 168.

*Fellows of a college entitled as such, under a will, to annual payments from realty profits, do not acquire an estate "by devise." Appointment to college fellowship, not "promotion to an office." Payment charged on land in two counties to be rateably apportioned to net proceeds of land in each county.*

NORTH DURHAM. O. and W. claimed to be inserted in the list of voters for the parish of Hunstonworth in respect of a "rent-charge" (a).

They were fellows of Lincoln College, Oxford, and

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(a) See *ante*, note (b) on p. 7.

as such were entitled to, and did, receive annually the sum of £10 apiece, under the following circumstances :

Lands situate at Hunstonworth, and in the county of Northumberland, were devised by will in 1720, to trustees in fee, on trust, out of the rents and profits thereof, to pay certain yearly sums to and for certain specific persons and objects, including the yearly sum of £10 to each of the fellows of Lincoln College.

These last-mentioned sums were, and always had been, pursuant to the directions in the will, received by the bursar of the college for the time being from the trustees, and by him paid over to the individuals severally entitled thereto.

The will contained directions as to the application of the surplus rents after all the annual payments had been made.

The annual sums so primarily made payable under the will were, and always had been, paid out of a joint fund, derived from the rents and profits of the estates in North Durham and Northumberland, without distinction.

The aggregate amount of such annual sums was £740.

The net annual proceeds of the land in North Durham were at most £735.

The net annual proceeds of the land in Northumberland were £6,100 (a).

Held, 1. That the yearly sum of £10 paid to each of the claimants under the will was not an estate coming to him "by devise," within section 18 of 2 Will. IV. c. 45.

2. That the college fellowship was not an "office" within that section.

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(a) The amount is erroneously stated in the judgment of the court, as reported in Common Bench Reports, Keane & Grant, "Weekly Reporter, and Jurist," as being £5,600, and in the "Law Journal" as £3,600.

3. That the lands in the two counties must be deemed to be rateably apportioned for the payment of the annual sums under the will, and that, consequently, the claimants (assuming each to be a "*cestui que trust* in actual possession," within the meaning of 6 Vict. c. 18, s. 74) had not freeholds of 40s. a year in North Durham: *West v. Robson*, 3 C.B., N.S. 422; K. & G. 141; 27 L. J. C. P. 262; 4 Jur., N. S. 666; 6 W. R. 659.

*Necessary expense of collecting rent, a charge to be deducted in ascertaining net annual value.*

SOUTH LANCASHIRE. S., and twenty-one others, were on the list of voters, each in respect of an undivided thirty-fifth share of certain freehold property, the gross annual rental of which was £110 14s. 4d. The outgoing during the year ending 31st July, 1859, exclusive of a commission for collecting the rents, amounted to £39 17s. 6d., leaving a balance of £70 16s. 10d., or about £2 0s. 6d. per share.

The owners employed one of their body to collect the rents, and allowed him a commission of £5 a year for so doing.

The revising barrister found that, from the nature of the property, this expenditure was necessary for the collection of the rents, and decided that the clear yearly value to each owner was, consequently, reduced to less than 40s. He accordingly expunged the names of S., and the twenty-one other persons, from the register.

Held, that upon the above finding, which was binding upon the court, the decision of the revising barrister was correct: *Sherlock v. Steward*, 7 C. B., N. S. 21; K. & G. 286; 29 L. J. C. P. 87; 6 Jur., N. S. 611; 1 L. T., N. S. 100.



*Shareholder in joint stock company, incorporated under Joint Stock Companies Acts, 1856 & 1857, does not possess, as such shareholder, any freehold estate, legal or equitable, in real property owned by company, but merely a right to participate in the profits.*

WEST RIDING OF YORKSHIRE. B. claimed to be registered in respect of "share in freehold mill and tenements."

These premises were the property of a joint stock company incorporated under the Joint Stock Companies Acts, 19 & 20 Vict. c. 47; and 20 & 21 Vict. c. 14.

B. was a shareholder in the company, and had 40s. a year in respect of his shares arising out of the said freehold premises.

Held, that B. had no freehold estate, legal or equitable, in the property, but merely a right to a proportionate share in the profits of the company, and, consequently, was not entitled to be registered as a voter: *Bulmer v. Norris*, 9 C. B., N. S. 19; K. & G. 321; 30 L. J. C. P. 25; 7 Jur., N. S. 342; 9 W. R. 122; 3 L. T., N. S. 470.

*Members of corporation aggregate seised of real property, not entitled to be registered in respect thereof, they having, individually, no estate therein, legal or equitable, but a mere right to participate in profits.*

EAST KENT. A. and others claimed to be inserted in the list of voters, each in respect of freehold land of the clear annual value of 40s.

They were members of a corporation called "The Company of Free Fishers and Dredgers of Whitstable, in the County of Kent."

The corporation was created by stat. 33 Geo. III. c. 42, which, after reciting that a certain company, called "The Whitstable Company of Dredgers," had, from time out of mind, held and carried on an oyster fishery within the manor and royalty of Whitstable, as tenants under the lord of the said



manor and royalty, and that it was desirable that the said company should be allowed to purchase the said manor and royalty, or such part thereof as would be convenient for the better regulation of the fishery, but that they were disabled from doing so because it was doubtful whether they were a corporation in law, and also on account of the Statutes of Mortmain, proceeded to enact, that the said company should thenceforth be a body corporate, with power to purchase the said manor and royalty.

In pursuance of the power thus given, part of the said manor and royalty were, soon after the passing of the Act, purchased by, and conveyed to, the corporation, their successors and assigns, to the only proper use and behoof of the corporation, their successors and assigns for ever.

The corporation have, ever since the above purchase, held and enjoyed the property so conveyed, the net profits whereof have always been divided proportionably among the members, and have always exceeded 40s. per annum for each member.

The members have always considered and treated the whole of the property so held by them as belonging to themselves jointly, as liable to be disposed of and used by them for their own individual benefit, at the pleasure of the corporation.

Held, that the right of the individual members was confined to a share in the net profits, and did not extend to a legal or equitable interest in the land itself, and that, consequently, the claimants were not entitled to be registered: *Acland v. Lewis*, 9 C. B., N. S. 32; K. & G. 334; 30 L. J. C. P. 29; 9 W. R. 123; 7 Jur., N. S. 421; 3 L. T., N. S. 470, 472.

*Revising barrister having decided against a life interest, the court would not interfere, as the facts did not necessarily prove the existence of such an interest.*

SOUTH WILTS. C., the minister of a dissenting congregation, was on the list of voters in respect of a

dwelling-house and premises. These premises were, by deed dated 25th September, 1813, vested in trustees, on trust, "to permit the said dwelling-house and premises to be held, used, and occupied by the minister of the said congregation for the time being, as and for his place of abode and residence." The deed contained no direction as to the mode by which the minister should be appointed, and gave no power for his removal.

The following facts were adduced in evidence as to the mode and duration of C.'s appointment. Some years prior to the revision, he received a letter from three deacons of the congregation, inviting him to become their minister, and he, accordingly, undertook the duties for a probationary period of three months, and at the expiration of that time he received, verbally, a second call in general terms to become the minister of the congregation, which he did, and had remained so ever since, and occupied as such the premises in question.

Both C. himself, and one of the deacons (who had known the usage for thirty-five years), stated that they considered the "appointment to be for life."

The revising barrister being of opinion that the facts did not establish that C.'s appointment was for life, expunged the name.

The court affirmed the decision, as the facts did not necessarily prove that such general appointment operated as an appointment for life (*a*): *Collier v.*

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(*a*) ERLE, C. J., in delivering the judgment of the court, said:—"Although the question referred to us is, strictly speaking, a question of fact, it is probably sent to us in order that some principle may be suggested for future guidance. We, therefore, add, that the question is the same as that which would arise in equity, if the trustees brought ejection against the minister without any legal cause for removal, and the minister applied for an injunction to stay the action. Lord Eldon, for his guidance on that point in the *Attorney-General v. Pearson* (3 Meriv. 420), directed the master to inquire as to the usage in respect of the duration of the office, and particularly whether any agreement or understanding was entered into between the minister, and the persons for the time being members of the congregation attending the meeting-house

*King*, 11 C. B., N. S. 14; K. & G. 385; 31 L. J. C. P. 80; 8 Jur., N. S. 676; 5 L. T., N. S. 674.

*Inmates of Shrewsbury Hospital, Sheffield, have no votes in respect of the rooms they occupy therein.*

WEST RIDING OF YORKSHIRE. B. claimed a vote in respect of a "freehold house."

He was an inmate of Shrewsbury Hospital, Sheffield, and occupied rooms therein under the trusts and constitutions of the hospital. The annual value of the rooms thus occupied by B. exceeded 40s., and they had been in his possession for the requisite period.

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and subscribing to its support, touching the duration of the ministry of the minister. According to the result of such enquiry upon the duration of the appointment would be the decision of the revising barrister for or against the qualification."

In 1829, the Court of Chancery refused to interfere to prevent the removal of the minister of a dissenting chapel vested in trustees, the deed being silent as to the mode of electing the minister and his continuance in office, and containing no provision for his support, but he was dependent for it on the voluntary contributions of his flock: *Porter and others v. Clarke and others*, 2 Sim. 520.

By the trust deeds of a congregation of Independents, a chapel, a house, and other property, were vested in trustees for the use of the congregation, and to permit the minister for the time being to occupy the house. The deeds contained no express provision for the appointment or removal of a minister. In 1866, G. was invited by a resolution of the church members of the congregation to become co-pastor with the then minister. In 1868, a majority of the church members resolved that G. be dismissed, and the majority of the trustees concurred in this resolution. G. claimed to hold his office for life, in the absence of immorality or preaching contrary to the tenets of the denomination, neither of which was charged. It was held, that G. was duly dismissed: *Cooper v. Gordon*, L. R. 8 Eq. Cas. 249.

STUART, V.-C., in giving judgment in the above case, said:—"It is scarcely necessary to notice the argument that the tenure of his" (G.'s) "ministry for life must be implied from the terms of the invitation and acceptance mentioning no shorter period. Nothing that involves an absurdity can by implication be made part of a contract. If it is to be implied that he was made minister for his lifetime, then the unanimous vote of the congregation would not displace him; and if he could not be displaced, there would be the absurdity of his being the officiating minister of a congregation unanimously recusant of his services."

See also *Ferry v. Shipway*, 1 Giff. 1.

The hospital was founded in 1625, under the will of Gilbert, Earl of Shrewsbury. Its lands and revenues were vested in trustees, on trust, among other things, to maintain and keep the hospital buildings in repair, and pay certain stipends and allowances to the officers and inmates of the institution.

The constitutions required, as a qualification for admission, that the inmates should be poor, indigent people, and such as by persons of honest repute should be judged fit objects of the charity.

They further ordained that each inmate should be provided with separate accommodation in the hospital for life, but it did not appear that each was not removable from one set of rooms to another at the will of the governors.

By virtue of the same authority the inmates were prevented from underletting, assigning, or jointly occupying with others, the rooms appropriated to them respectively.

Any inmate failing to satisfy the conditions of membership, or committing certain breaches of the rules and constitutions, was liable to expulsion, but no member had ever been expelled.

Held, in accordance with *Heartley v. Banks* (5 C. B., N. S. 40, *post*, pp. 121, 122), that B. had no estate of freehold, legal or equitable, in the rooms in which he resided, and was consequently not entitled to be registered: *Freeman v. Gainsford* (*re* Shrewsbury Hospital), 11 C. B., N. S. 68; K. & G. 448; 31 L. J. C. P. 33; 8 Jur., N. S. 717; 5 L. T., N. S. 611.

*Parish clerk has no vote in respect of his office; nor, if entitled by ancient custom to a burial fee on the opening of every grave in parish churchyard, does he thereby acquire a freehold interest in land.*

EAST KENT. The appellant was on the list of voters in respect of a "freehold office." He was in

1826 duly appointed parish clerk of the parish of St. James, Dover, and held the appointment for life. He received, as part of the emoluments of the office, the clerk's share of an ancient due, which was payable to the clerk and sexton on the opening of every grave in the parish churchyard.

The clerk had nothing to do with the opening of the graves, a duty which was performed entirely by the sexton, who was paid for making each grave independently of the fee which he shared with the clerk. The clerk's share of the fees thus received by the appellant amounted to 40s. a year.

Held, that the appellant was not entitled to the franchise, either in respect of his office, or as having a freehold interest in land: *Bushell v. Eastes*, 11 C. B., N. S. 106; K. & G. 484; 31 L. J. C. P. 44; 8 Jur., N. S. 645; 10 W. R. 153; 5 L. T., N. S. 580.

*Emoluments of an office, paid out of revenues derived from land, do not create in holder of such office an interest in land entitling to vote.*

EAST KENT. H., one of the six preachers of Canterbury Cathedral, B., one of its lay-clerks, and P., one of the cathedral bell-ringers, claimed to be registered, each in respect of a freehold office in the parish of C. They held their respective offices for life, or during good behaviour, and severally received certain stipends, of not less than £20 a year, in payment for the discharge of their duties.

These stipends were paid to them annually by the dean and chapter out of the chapter revenues, which were derived either wholly or in part from lands vested in the dean and chapter, and situate (a) in the

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(a) The case does not state that the profits of the land in *East Kent* were sufficient to give each claimant 40s. a year. The question of value, however, proved to be immaterial, as the decision turned upon the question of equitable interest.



parish of C. and other parishes in East Kent, and elsewhere out of the county.

Held, that the claimants had no equitable interest in land entitling them to vote: *Hall v. Lewis*, 11 C. B., N. S. 114; K. & G. 499; 31 L. J. C. P. 45; 8 Jur., N. S. 646; 10 W. R. 151; 5 L. T., N. S. 491.

*Member of building society entitled to vote, although his periodical payments exceed annual value of mortgaged premises, provided he has a beneficial interest therein of 40s. per annum.*

SOUTH NORTHAMPTONSHIRE. At the revision of 1863, D. was objected to on the list of freehold voters for the parish of St. Sepulchre. He was a member of, and held a share in, a building society.

Some years before the revision, the society advanced to him £73, wherewith he purchased some freehold land of the annual value of £3. He then mortgaged the land to the society to secure the monthly payments due upon his share, amounting to £4 per annum.

In the event of failure by D. to pay his instalments for a certain limited period, the society was empowered to enter and take possession of the land. D. was entitled to redeem the property by the payment of these monthly instalments alone, without any other payment of principal.

He had, without default, paid up £71 before 31st January, 1863, and the remaining £2 between that date and 31st July following.

The revising barrister found, on these facts, that D. had a freehold interest prior to 31st January, 1863, of the annual value of 40s. above all charges, and retained his name on the list.

The court affirmed the decision (a): *Robinson v.*

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(a) This case apparently conflicts with *Copland v. Bartlett*, 6 C. B. 18, *ante*, p. 10, and *Beamish v. Stoke*, 11 C. B. 29, *ante*, pp. 14, 15. However, in those cases the value of the equity of redemption was not found: see the judgments of Willes and Montagu Smith, JJ., in *Kolleston v. Cope*, L. R. 6 C. P. 300 *et seq.*



*Dunkley*, 15 C. B., N. S. 478; H. & P. 1; 33 L. J. C. P. 57; 9 Jur., N. S. 1342; 12 W. R. 202; 9 L. T., N. S. 481.

*Shareholders in Manchester Corn Exchange (an unincorporated joint stock company) held not to possess, as such shareholders, any freehold estate, legal or equitable, in land on which the building stands, but merely a right to participate in the profits.*

SOUTH LANCASHIRE. The appellant was on the list of voters in respect of a share (value 40s. a year) in the Manchester Corn Exchange.

The company of proprietors of the exchange was established by deed of settlement in 1837, and was registered under 7 & 8 Vict. c. 110, s. 58.

The object for which the company was formed was to provide and maintain in Manchester a building for effecting contracts of sale therein, by sample or otherwise than by bulk, of corn, &c.

The land on which the building was erected was freehold, and was vested in trustees for the purposes of the company.

The affairs of the company were, in accordance with the deed of settlement, under the control of a committee of shareholders.

This committee made a profit out of the exchange by levying payments in respect of its user for the business for which it was built, and by letting it for other purposes; and, after deducting the amount necessary for expenses, they divided the surplus among the shareholders.

The shares were declared by the deed of settlement to be personal property, and were transferable as the committee might appoint.

Held, 1. That the company, having been only provisionally registered under section 58 of 7 & 8 Vict. c. 110, was not a corporation; 2. That the shareholders had no freehold interest in land, either

at law or in equity, but merely a right to share the company's profits, and, therefore, that the appellant was not entitled to be registered as a voter: *Bennett v. Blain*, 15 C. B., N. S. 518; H. & P. 35; 33 L. J. C. P. 63; 12 W. R. 175; 9 L. T., N. S. 506; 10 Jur., N. S. 130.

*Equitable right of inmates of Bottesford Hospital to payments under trusts of that institution, not an equitable freehold interest in land.*

NORTH LEICESTERSHIRE. The appellant was on the register in respect of a "freehold interest in land."

He was one of the inmates of Bottesford Hospital, founded by the Duke of Rutland in or about 1692 for the support of poor men.

By a deed of 1762 the lands of the charity were re-conveyed by the then Duke of Rutland to trustees, on trust, to permit the rectors for the time being of the parishes of B. and H. to receive the rents and profits, and apply the same (*inter alia*) to the payment and distribution of certain specified sums and allowances to each of the then and future inmates of the hospital.

The deed contained no provision as to the disposal of the surplus revenues; they were, in fact, distributed among the inmates.

The sums paid to each inmate in each year exceeded in the aggregate £10.

Each inmate occupied a separate room; he paid no rates or taxes, did no repairs, and was removable for misconduct.

Held, that the appellant had no equitable freehold interest in the lands of the hospital, but only a right to certain money payments and allowances from the trustees, and was, consequently, not entitled to the franchise: *Steele v. Bosworth*, 18 C. B., N. S. 22; H. & P. 106; 34 L. J. C. P. 57; 10 Jur., N. S. 1239; 13 W. R. 260; 11 L. T., N. S. 507.

*Where revising barrister held that voter had, by virtue of his office as parish clerk, a freehold interest in land entitling him to vote, and the facts disclosed no impossibility of his having such interest, the court would not review the decision. Appointment as parish clerk need not be by deed.*

OXFORDSHIRE. The respondent's name appeared in the list of voters for the parish of M. in respect of "freehold office of parish clerk." It was proved that he was duly appointed parish clerk for the parish of M. by the vicar, and had performed the duties of such office for thirty years: but there was no proof of appointment by deed. By virtue of his office of parish clerk, he was entitled to one-twelfth share in twenty-six acres of freehold land situate in the parish, so long as he continued parish clerk.

The yearly value of his share was 40s.; and it was let by him for that sum.

It was further proved that the right of the parish clerk of M. for the time being to the said twelfth share was fixed and certain; that the respondent's predecessors in office had always received and enjoyed it; and that he himself had enjoyed it ever since his appointment.

The only other evidence as to the original title of the parish clerk of M. to the share in question was an extract from the report of the charity commissioners relating to the parish, bearing date 9th July, 1824, as follows:—

"There is in this parish a piece of bushy land, containing about twenty-six acres, on which twelve of the poor men have a right of common for a cow. We could not discover the origin of this right; and it is doubtful whether it can be referred to any charitable foundation. These twelve cow commons are, however, always enjoyed by twelve poor persons, of whom the parish clerk is one."

There was no evidence of any election of the respondent as one of such poor men.

It was contended before the revising barrister,—

1. That the respondent took no freehold interest in his share, but that his interest therein was eleemosynary.
2. That even if his interest were freehold, yet the annual value thereof, being less than £10, was insufficient, as the calling of “parish clerk” was not an “office” within the exception in section 18 of 2 Will. IV. c. 45.
3. That the appointment of parish clerk must be by deed (a).

The revising barrister decided that on the above facts the respondent did take a freehold interest in his share, and that “parish clerk” was an “office” within section 18 of 2 Will. IV. c. 45; and accordingly he retained the respondent’s name in the list, and amended the third column to “freehold land, in right of office.”

The court held that the facts disclosed no impossibility of the respondent having a freehold interest in the land, and, therefore, the revising barrister’s decision was not open to review: *Roberts v. Drewitt*, 18 C. B., N. S. 48; H. & P. 132.

*Bedesmen of Burleigh Hospital have an equitable freehold interest in their rooms respectively, and are consequently entitled to vote.*

NORTH NORTHAMPTONSHIRE. B. and twelve others (bedesmen of Burleigh Hospital) were on the register of voters, each in respect of a “freehold tenement or room.”

[The facts as to the appointment of the several voters and the nature and mode of enjoyment of the qualifying property being similar to the facts as stated in *Simpson v. Wilkinson*, 7 M. & G. 50, *ante*, pp. 2, 3, it was agreed at the revision court that the barrister’s statement of the last-mentioned case should be taken, *mutatis mutandis*, as forming part of this.]

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(a) This point (reserved with others for the Court of Appeal) was abandoned on the argument.

The following additional facts were proved:—

In 1846 the warden and bedesmen sold a portion of the hospital premises to a railway company. They conducted the sale as owners, without the intervention of any other person, and they expended the purchase-money in erecting buildings for their own purposes in the garden attached to the hospital.

Held, in accordance with *Simpson v. Wilkinson*, 7 M. & G. 50, *ante*, pp. 2, 3, and distinguishing *Heartley v. Bankes*, 5 C. B., N. S. 40, *post*, pp. 121, 122, and *Freeman v. Gainsford*, 11 C. B., N. S. 68, *ante*, pp. 27, 28, that the bedesmen had an equitable freehold interest in their rooms respectively, and were, consequently, entitled to vote (*a*): *Roberts v. Percival*, 18 C. B., N. S. 36; H. & P. 121; 34 L. J. C. P. 84; 11 Jur., N. S. 40; 13 W. R. 265; 11 L. T., N. S. 603.

*Cestui que use, under a conveyance to uses, of a rent-charge (b), is "in actual possession" thereof, within 2 Will. IV. c. 45, s. 26, from the date of the execution of the conveyance.*

**SOUTH LANCASHIRE.** The appellant was on the list of voters (revised in 1864) in respect of an undivided share of an annual freehold rent-charge of £50.

The rent-charge (created in 1839) was by a deed of 27th January, 1864, conveyed to one H. and his

(*a*) It was objected before the revising barrister that the point in dispute in the above case was concluded by *Simpson v. Wilkinson*, and, consequently, that the barrister was prevented by section 66 of 6 Vict. c. 18, from re-opening the inquiry. The revising barrister overruled the objection, but reserved the point. Counsel for the respondent argued, that section 66 only meant that the decision of the court should be conclusive in the particular case in which the decision was given. The court said, that the burden of showing that such was not the true construction was on the other side; see per BRETT, and GROVE, JJ., in *Hadfield's case*, L. R. 8 C. P. 311, 320, 321; and per Lord COLERIDGE, C. J., in *Lowcock v. Broughton*, L. R. 12 Q. B. D. on pp. 371, 372.

(*b*) See *ante*, note (*b*), on p. 7.



heirs, to the use of the said H. and five others, of whom the appellant was one, their heirs and assigns, equally in undivided shares, as tenants in common.

The rent was payable half-yearly, on 24th June, and 25th December.

The first half-year's rent, due on the 24th June, 1864, was paid to the parties entitled thereto between the 24th of June and the 30th July in that year.

Held, that as the deed of the 27th of January, 1864, operated under the Statute of Uses, the appellant was by force of that statute in "actual possession" of the rent-charge within 2 Will. IV. c. 45, s. 26, immediately on the execution of the deed, and was therefore entitled to the franchise: *Heelis v. Blain*, 18 C. B., N. S. 90; H. & P. 189; 34 L. J. C. P. 88; 11 Jur., N. S. 18; 13 W. R. 262; 11 L. T., N. S. 480.

*Shareholders in Putney Bridge not entitled to vote in respect of their shares.*

EAST SURREY. Twenty-five persons on the Putney list of voters claimed in respect of "freehold shares in Fulham Bridge."

The statute 12 Geo. I. c. 36, was passed for building a bridge from Fulham to Putney, and by section 1 commissioners were appointed, with powers for that purpose.

Section 5 enabled bodies corporate and others to convey land to the commissioners for the purposes of the Act.

Section 7 gave authority to incorporate the commissioners, with power to buy, hold, and sell land.

The commissioners were never incorporated.

By section 10, a certain toll for permission to pass over the bridge was to be vested in the commissioners, who were to apply it towards the expense of making and maintaining the bridge, and the purchase of the necessary ground.



By section 16 the commissioners were authorized to deepen the river.

By section 17, all stones, bricks, and other materials used in making and maintaining the bridge, or for deepening the river, were to be deemed to belong to the commissioners.

A subsequent Act (1 Geo. II. c. 18), for explaining and amending the above Act, empowered (section 1) the commissioners, or any nine or more of them, before incorporation and the corporation, when created, to contract with any persons for the building and maintenance of the bridge, and also to grant annuities in fee out of the tolls or profits thereof, but such annuities were to be deemed personal estate.

By section 3, the commissioners, or any nine or more of them, and the corporation, when created, were authorized to convey or assign over in perpetuity the tolls and profits of the bridge to such persons as would undertake to build and maintain the same.

Section 5. On compensation being made to the proprietors of the then existing horse-ferries, such ferries, and the ground and soil adjacent, were to be vested in the commissioners and corporation.

The ferries were purchased.

On 19th November, 1728, the commissioners entered into a contract with thirty persons, who had subscribed the necessary funds, that such thirty persons should build and maintain the bridge, and make the payments and purchases required by the Acts, and in pursuance of such contract the bridge was built, and the required payments and purchases made.

By indenture of bargain and sale of 11th November, 1729, the commissioners granted and assigned to trustees the said bridge, and tolls, with all such ground and soil adjacent and belonging to the late or then present ferries, as had been, was, or should be vested in the said commissioners, and every other matter or thing which they were empowered to

assign and convey over by virtue of the said Acts, or either of them; on trust to permit the said thirty persons, their heirs and assigns, to receive the said tolls, and have the sole management and direction thereof, and divide the net proceeds among themselves, according to their respective rights and interests therein—to hold as tenants in common.

The claimants' interest in the bridge was identical with that of the thirty proprietors, and had always been conveyed, transmitted, and dealt with as freehold estate.

The bridge was built partly on piles driven into the bed of the river, and at either end upon brick foundations, which stood respectively upon that part of the banks between high and low water, whence formerly the ferries used to ply from side to side, and partly upon land which formerly was ground and soil adjacent and belonging to the ferries.

There were toll-houses at each end of the bridge, and they stood on the brick foundations above mentioned.

Held, that the commissioners had no power to part with the land vested in them by the statutes, and that the shareholders, taking the conveyance of 1729 with a knowledge of the title under the Acts of parliament, acquired nothing more than could be lawfully conveyed, viz., the tolls, and, consequently, had no such equitable freehold estate as would entitle them to a county vote (*a*): *Tepper v. Nicholls*, 18 C. B., N. S. 121; H. & P. 202; 34 L. J. C. P. 61; 13 W. R. 270; 11 Jur., N. S. 18; 11 L. T., N. S. 509.

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(*a*) It is not to be inferred from the above decision that tolls cannot in any case qualify for a vote; see per WILLES, J., in *Wadmore v. Dear*, L. R. 7 C. P. 223, 224, 225. A description of certain ancient tolls in their relation to the franchise will be found in ELLIOTT, on Qualifications and Registration, 2nd Ed., 38, 39, 40.

*Shareholders in Sheffield Music Hall, held not to possess, as such shareholders, any freehold interest in land on which building stands, but merely a right to share the profits.*

WEST RIDING OF YORKSHIRE. By a deed made on 2nd October, 1828, certain persons were entitled to undivided freehold shares in the Sheffield Music Hall, and it was admitted that the provisions of that deed were such as to qualify them to be on the register of voters in respect of their shares. But by a deed, dated 13th June, 1864, the fee of the hall was vested in trustees, who were empowered by the deed to manage the hall, to receive the rents and profits, declare a dividend, and divide the same among the proprietors according to their respective shares.

Held, on the authority of *Bennett v. Blain* (15 C. B., N. S. 518, *ante*, pp. 31, 32), that the shareholders had, after the execution of the deed of 1864, no direct interest in the freehold, but only a right to share the profits, and, consequently, that they were not entitled to the county franchise: *Freeman v. Gainsford* (*re* Sheffield Music Hall), 18 C. B., N. S. 185; H. & P. 255; 34 L. J. C. P. 95; 11 Jur., N. S. 116; 11 L. T., N. S. 675; 13 W. R. 343.

*Rent-charge (a), the grant whereof contains no power of distress, is, nevertheless, a "freehold tenement" within 8 Hen. VI. c. 7, a remedy by distress being supplied by 4 Geo. II. c. 28, s. 5.*

NORTH NORTHUMBERLAND. Ten persons were on the list of voters in respect of qualifications described as "Freehold rent issuing out of freehold dwelling-houses," or "Freehold rent-charge (*a*) issuing out of freehold house."

The several voters claimed to be entitled to vote by virtue of certain deeds, one of which was as follows:

"This indenture made the 22nd of January, 1851,

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(a) See *ante*, note (b), on p. 7.

between Robert Dodds, the elder, of &c., of the one part, and Robert Dodds, the younger, of &c., and Adam Dodds, of &c., sons of the said Robert Dodds, the elder, of the other part, Witnesseth, that, in consideration, &c., he the said Robert Dodds, the elder, doth hereby give and grant unto the said Robert Dodds, the younger, and Adam Dodds, their heirs and assigns, one annual sum or yearly rent-charge of £4 4s., of sterling money, to be charged and chargeable upon, and yearly issuing and payable out of all those messuages, burgages, or tenements, situate, &c., to have, receive, take, and enjoy the said annual sum or yearly rent-charge of £4 4s., unto and by them, the said Robert Dodds, the younger, and Adam Dodds, their heirs and assigns for ever, in equal shares, as tenants in common." [Here followed the times of payment.] "In witness," &c.

The grantors were proved to be seised in fee of the property charged, the value whereof was sufficient for the payment of the annual sums, and the several grantees had received the same.

The revising barrister decided, that, without a power of distress, the grants were respectively insufficient to give a vote, and that there was no power of distress; and he, therefore, disallowed the votes.

The court held, reversing the barrister's decision, that payment of the rent-charges was enforceable by distress under 4 Geo. II. c. 28, s. 5, and, therefore, that each of such rent-charges was a "freehold tenement" within 8 Hen. VI. c. 7, and consequently the grantees were entitled to vote in respect thereof (a): *Dodds v. Thompson*, L. R. 1 C. P. 133; H. & P. 285; H. & R. 319; 12 Jur., N. S. 625; 35 L. J. C. P. 97; 14 W. R. 476.

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(a) Before the abolition of real actions by 3 & 4 Will. IV. c. 27, a rent seek issuing out of freehold land was, it seems, a "freehold tenement" within 8 Hen. VI. c. 7, independently of 4 Geo. II. c. 28, s. 5. See the observations of the court in the above case.

*Trustee entitled to pay himself 40s. a year out of the trust estate, part of which only was in his actual occupation, held to have no power to make such annuity issue out of that part which he occupied, for the purpose of acquiring a vote ; but the 40s. must be apportioned between such part and the rest of the trust estate.*

NORTH RIDING OF YORKSHIRE. The appellant and five others were objected to on the freeholders' list for West Ayton.

The nature of the qualification and local description thereof in each case stood thus :—

“*Cestui que trust* in receipt of rents and profits, and in possession or occupation of freehold farms and lands.”

“At West Ayton, partly occupied by Thomas Darrell and others residing at West Ayton.”

By a deed of 1704, dame Sarah Hewley conveyed in fee to trustees for certain charitable purposes, certain lands known as the West Ayton Estate.

By an order of the Charity Commissioners, dated 18th March, 1862, the legal estate in the said property was vested in the appellant and the five other persons, as trustees of the charity. One of the trusts was to pay £5 a year to each of the trustees, which payment was charged on the whole estate.

The trustees retained in their own occupation a portion of the property, consisting of some woodlands, and they let the remainder. If the £5 a year payable to each trustee was calculated proportionately to the whole property, the trustees had not 40s. a year each out of the woodlands alone.

Held, that, assuming each of the trustees could be said to be in possession of the woodlands as a *cestui que trust*, yet the £5 a year could not be confined to that part of the estate, but must be apportioned over the whole of it, and, therefore, he was not entitled to a county vote, inasmuch as he had not 40s. a year out of the woodlands: *Mills v. Cobb*, L. R. 2 C. P.



95; H. & P. 357; 15 W. R. 224; 15 L. T., N. S. 469; 36 L. J. C. P. 75; 12 Jur., N. S. 1007.

*Proprietors of pews in Oldham parish church have not, by virtue of 5 Geo. IV. c. 64, any freehold interest in the soil of the church entitling them to vote for the county.*

SOUTH LANCASHIRE. B. claimed a vote as a freeholder, his alleged qualification being a "freehold pew."

The pew was in the body of the church, or parochial chapel of ease, of Oldham, within the parish of Prestwich-cum-Oldham, which had been rebuilt under a local Act, 5 Geo. IV. c. 64.

By that Act, after reciting (*inter alia*) that the church or parochial chapel of Oldham was decayed, and not sufficiently large for the accommodation of the inhabitants of the chapelry of Oldham, and that it was expedient that the said church should be taken down and a new and larger church erected in lieu thereof, it was enacted that certain persons, including the rector, curate, and churchwardens, for the time being, should be appointed trustees for carrying the Act into execution.

The trustees were accordingly empowered by the Act to pull down the body of the then present church, to enlarge the site of it, and to rebuild it of larger dimensions in the same situation, and also to erect in the new church such pews, seats, &c., as they might think fit.

The materials of the old church, and those which should be purchased for building the new one, were by the Act vested in the trustees, who were thereby empowered to bring actions, and prefer bills of indictment against persons for injuring the church or stealing the materials, the property therein respectively being laid in the trustees.

The then present rector of the parish and his successors were by virtue of the Act to be rectors of



the church when rebuilt, in like manner as of the old, and the new church was to all intents and purposes to be the parish church of Oldham.

The Act required the trustees to allot pews and seats in the new building to the proprietors of pews or seats in the old, such new pews or seats to be held by such proprietors, their heirs, executors, administrators, successors, and assigns, in the same and in as full and ample a manner as the pews or seats for which they were substituted had been held by them respectively.

The trustees were also empowered by the Act to sell to inhabitants of the chapelry the fee simple and inheritance of such of the new pews or seats as were not otherwise appropriated under the Act, and it was provided that on the execution of a conveyance, pursuant to the Act, of any pew or seat so sold, such pew or seat should be vested in the purchaser, his heirs and assigns for ever, and might thereafter be sold, conveyed, devised, or otherwise disposed of, by the proprietor for the time being, to any other persons, *being inhabitants* of the chapelry, subject only to the payment of rent, and to the rules, regulations, rates, and impositions, to which the pew or seat, or the owner thereof, might become liable under the Act.

A form of conveyance was enacted, in which the trustees grant to the purchaser, his heirs and assigns, the pew sold, and all their right, title, and interest, to and in the same, to hold the same to the purchaser, his heirs and assigns for ever.

The pew in question had been sold and conveyed by the trustees to an inhabitant of the chapelry, of whom B., also an inhabitant of the chapelry, had purchased it. B. did not occupy the pew himself, but let sittings in it to inhabitants of the chapelry, who paid him more than 40s. a year for their seats.

Held, that B. had no freehold interest in the land covered by the pew, but merely a right, in the nature of an easement, to occupy the pew for Divine Service: *Hinde v. Chorlton*, L. R. 2 C. P. 104; H. & P. 383;

36 L. J. C. P. 79; 12 Jur., N. S. 1008; 15 W. R. 226; 15 L. T., N. S. 472.

*Annuity derived from land, but forming no specific charge upon it, insufficient to qualify.*

SOUTH NORTHAMPTONSHIRE. The respondent claimed a vote in respect of "interest arising from freehold houses."

He was a member of a friendly society, and was, under one of its rules, entitled to, and in receipt of, the sum of 4s. per week (£10 8s. per annum) as an annuity for life (if the funds of the society admitted), such annuity "to be paid out of the *property* of the society."

The society's funds, derived partly from rents of freehold tenements vested in trustees, and partly from the contributions and fines of its members, formed one general stock in the hands of the treasurer for the payment of expenses and allowances.

The accounts of the society showed that the rents of the freeholds alone were sufficient to pay the respondent's annuity of £10 8s. by the weekly instalments of 4s. each year.

Held, that the word "property" in the above rule did not denote the real property of the society, as distinguished from the other sources of its income, and that, the annuity forming no specific charge on the land, the respondent had no direct interest in the latter entitling him to the franchise: *Robinson v. Ainge*, L. R. 4 C. P. 429; 1 H. & C. 193; 19 L. T., N. S. 644.

*Holder for life of an "acre," according to immemorial custom, in the town of Chipping Sodbury, has an equitable freehold estate, and is in actual and bonâ fide occupation, within section 18 of 2 Will. IV. c. 45, notwithstanding rights of after-grass and pasture granted to others.*

WEST GLOUCESTERSHIRE. T. was on the list of voters for the parish of Chipping Sodbury, in respect

of freehold land, which he held under the following circumstances:—

The bailiff and bailiff burgesses of the town of Chipping Sodbury, being entitled to a meadow divided into eighty-one allotments called “acres,” had, by immemorial custom, as each “acre” became vacant, invested some one of the inhabitants with the possession thereof. The mode of investiture consisted in the delivery of a sod and a twig to the donee, accompanied by a form of words, the effect of which was, that the inhabitant should hold his “acre” for life, if he continued to reside in the town, chargeable with waste, and subject to the rules and orders, present and future, of the bailiff and bailiff burgesses respecting the meadow. The holder of each “acre” drained, manured, and mowed it.

After the crop of grass had been removed by the several holders, the bailiff and bailiff burgesses, according to immemorial custom, granted the after-grass to such of the inhabitants as they thought fit, to the number of eighty-two, such grantees being thereby entitled to depasture each a cow on the meadow for five weeks, from 10th September.

At the expiration of that period, the entire meadow was, by custom, thrown open by the bailiff and bailiff burgesses to all the inhabitants of Chipping Sodbury, to depasture sheep and cattle therein till 15th December.

Each holder was separately rated in respect of his “acre,” and there had been no instance known of a person once elected as the holder of an “acre” being dispossessed, except by death or ceasing to reside.

The clear annual value of each “acre” was more than £3, but less than £5.

T. was, and had been for many years, the holder of an “acre” in conformity with the above mentioned customs, and he was objected to on the ground that his interest in the land was not such as to entitle him to the franchise.

Held, that T. had an equitable freehold estate,

and was in actual *bonâ fide* occupation, within 2 Will. IV. c. 45, s. 18, and was, therefore, entitled to a county vote: *Trenfield v. Lowe*, L. R. 4 C. P. 454; 1 H. & C. 237; 38 L. J. C. P. 191; 17 W. R. 673; 20 L. T., N. S. 394.

*Emoluments (exceeding 40s. a year) annexed to a freehold benefice, but not issuing out of land within the parish, do not give such benefice a qualifying value.*

MIDDLESEX. The appellant claimed to be inserted in the list of voters in respect of a freehold benefice, known as St. Andrew, Bethnal Green, and situate in the parish of St. Matthew, Bethnal Green.

He was the duly licensed incumbent of the church, and, as such, had the freehold thereof, and was entitled, as incumbent, to certain profits and emoluments—viz.:

1. An annual sum of £150 from the Ecclesiastical Commissioners, paid out of funds which did not arise from the lands within the parish.
2. An annual sum of £50 from the Governors of Queen Anne's Bounty, also paid out of funds which did not arise from lands within the parish.
3. Burial fees (exceeding 40s. a year) for the interment in a cemetery, out of the parish, of persons dying within the district attached to the church.
4. Fees (exceeding 40s. a year) for marriages, baptisms, and churchings, performed within the church.

The appellant was not in receipt of any income from pew rents.

Held, that he was not entitled to the franchise: *Kirton v. Dear*, L. R. 5 C. P. 217; 1 H. & C. 349; 39 L. J. C. P. 36; 18 W. R. 144; 21 L. T., N. S. 532.

*Perpetual curate in possession of land of requisite value attached to his perpetual curacy is not the less qualified to vote in respect thereof because not a corporation sole.*

CAMBRIDGESHIRE. Land of the clear annual value of 40s. was, in 1856, duly conveyed in exchange under 55 Geo. III. c. 147, "to the use of C. and his successors, vicars of the vicarage of Holy Trinity, Cambridge, for the time being, for ever."

The incumbency was only a perpetual curacy, and was not shown to have been augmented from Queen Anne's Bounty (*a*).

The respondent, who had become, in 1866, the incumbent, as perpetual curate, claimed to be registered as a county voter in respect of the above-mentioned land.

Held, that the claim was good, as, even if the respondent was not as perpetual curate a corporation sole (*a*), he had at least an equitable freehold interest in the land conveyed: *Wallis v. Birks*, L. R. 5 C. P. 222; 1 H. & C. 365; 39 L. J. C. P. 106; 18 W. R. 734; 22 L. T., N. S. 268.

(*a*) By 1 Geo. I. stat. 2, c. 10, s. 4, it is enacted that "all such churches, curacies, or chapels, which shall at any time hereafter be augmented by the Governors of the Bounty of Queen Anne for the augmentation of the maintenance of the poor clergy shall be, and hereby are declared and established to be, from the time of such augmentations, perpetual cures, and benefices; and the ministers duly nominated and licensed thereunto, and their successors respectively, shall be, and be esteemed in law, bodies politic and corporate, and shall have perpetual succession by such name or names as in the grant of such augmentation shall be mentioned, and shall have a legal capacity, and are hereby enabled to take in perpetuity to them and their successors all such lands, &c., as shall be granted unto or purchased for them respectively by the said governors."



*Proprietors of pews in St. Mark's Church, Upper Duke Street, Liverpool, have not, by virtue either of 56 Geo. III. c. 65 (local and personal), or 2 & 3 Vict. c. 33 (private), any freehold interest in the soil of the church entitling them to votes for the county.*

SOUTH-WEST LANCASHIRE. R. claimed to be registered in respect of "freehold pews," which he held in St. Mark's Church, Duke Street, Liverpool, and which were of the clear annual value of £5 each.

A deed was produced bearing date 29th April, 1863, made between one Highfield and R., which, after reciting that Highfield was seised to him and his heirs of the said pews for an estate of inheritance in fee simple, witnessed that Highfield did thereby grant and convey to R. and his heirs the said pews, and the sole and exclusive right of using the same at all times when Divine Service should be performed in the said church, and at all other reasonable times when the said church should be opened for the use of persons frequenting the same.

It was admitted that Highfield derived his title from a deed in the same terms, made shortly after the passing of 2 & 3 Vict. c. 33 (private), between Highfield and the persons mentioned in section 4 of that Act as "The said subscribers to the said church of St. Mark."

The church of St. Mark was established under 56 Geo. III. c. 65 (local and personal), which, after reciting that a lease of land had been procured, and a church with pews, seats, &c., built thereon, and that the subscribers to, and proprietors of, the said church had purchased the freehold reversion and inheritance thereof in fee simple, enacted that certain persons and their successors were appointed commissioners and trustees for the management of the temporal affairs of the church, &c., who were empowered to let or sell, and transfer and convey for the purpose only of attending Divine Service

certain pews or seats specified in schedule 3 of the Act, and including the pews in question.

All the pews or seats so specified were, by the Act, rendered chargeable with certain rents, and such other rateable leys or assessments as should be necessary for repaying to the proprietors of the church their costs in purchasing the freehold reversion and inheritance thereof.

The Act provided for the appointment annually of churchwardens, who were empowered to sue for and recover the rents, leys, or assessments by action of debt, or, on the case for use and occupation, to be brought against the owners or occupiers of the pews or seats.

By 2 & 3 Vict. c. 33 (private), reciting the above Act, and that doubts had arisen as to the estate and interest which the subscribers to, and proprietors of, the church took in the pews and seats specified in schedule 3 of the recited Act, it was enacted that the fee simple and inheritance of and in the said pews or seats should be vested in the said subscribers to the said church, or the proprietors for the time being of the same pews and seats, their heirs and assigns for ever.

Held, that R. did not acquire, under either of these statutes, any freehold interest in the land on which the church was built, or in any profits issuing thereout, but merely a qualified right, in the nature of an easement, to occupy the pews on certain occasions, and that, consequently, he was not entitled to a county vote: *Brumfitt v. Roberts*, L. R. 5 C. P. 224; 1 H. & C. 387; 39 L. J. C. P. 95; 18 W. R. 678; 22 L. T., N. S. 301.

*Proprietors of pews in St. George's Chapel, Stonehouse, have not, by virtue of 27 Geo. III. c. 17, any freehold interest in the soil of the chapel entitling them to votes for the county.*

SOUTH DEVON. C. claimed to be registered in respect of a "freehold pew," of the clear annual value of 40s.

The pew was in St. George's Chapel, East Stonehouse, which had been rebuilt under a public Act, 27 Geo. III. c. 17.

That Act, after reciting that the then existing chapel of St. George's, East Stonehouse, was decayed, and not sufficiently large for the inhabitants of the chapelry, empowered certain trustees to take down the chapel, and erect a new one instead thereof.

The trustees were required by the Act to appropriate the pews in the new chapel (except one for the curate) to the subscribers to the building, who were to be deemed proprietors of the pews allotted to them respectively, and such pews were, by the Act, "vested in such proprietors respectively, their heirs and assigns for ever."

The pew in question was appropriated by the trustees to a subscriber to the building of the chapel, who had conveyed it to the person by whom it had been conveyed to the claimant.

There was no evidence to show in whom was the freehold of the soil previously to the passing of the Act.

Held, in accordance with *Brumfitt v. Roberts*, L. R. 5 C. P. 224, *ante*, pp. 48, 49, and *Hinde v. Chorlton*, L. R. 2 C. P. 104, *ante*, pp. 42, 43, that C. was not entitled to a county vote: *Greenway v. Hockin*, L. R. 5 C. P. 235; 1 H. & C. 403; 39 L. J. C. P. 103; 22 L. T., N. S. 304.

*Periodical payments to building society in respect of principal, not a charge reducing annual value of freehold as against mortgagor in possession.*

SOUTH LEICESTERSHIRE. The appellant was objected to on the list of freehold voters for the parish of St. Mary.

He was a member of, and held shares in, a building society established under 6 & 7 Will. IV. c. 32.

In 1863, in consideration of the society advancing him £300 on his shares, he mortgaged to the trustees, as a security for the repayment thereof, with capitalised interest, some freehold tenements, of which he was owner in fee, to secure "the subscriptions, payments, redemption moneys, and fines in relation to the sum of £300," by monthly instalments of £3 9s. (£41 8s. a year, or £414 in all), extending over a period of ten years.

A power of sale was vested in the trustees in case of failure by the appellant for four consecutive months to pay the required subscriptions and observe the regulations of the society.

The appellant, having made no default, had always been in possession of the property.

There were still two years to run, during which he had to pay the monthly instalments, but he was entitled to redeem the property by a present payment of £73 1s.

The annual value of the tenements was £31 4s.

The annual payments of £41 8s. were made generally in reduction of the sum borrowed, and in discharge of the appellant's payments and subscriptions according to the rules of the society; but if such annual payments were appropriated, two-thirds (£27 12s.) would be in discharge of principal, and the remaining third (£13 16s.) in payment of interest.

Held, reversing the barrister's decision, that only so much of the annual payments as represented the interest should be deducted from the annual value of the tenements, and that, consequently, the appellant,

having an equitable interest of the value of 40s. a year, was entitled to the franchise: *Copland v. Bartlett*, 6 C. B. 18, *ante*, p. 10, and *Beamish v. Stoke*, 11 C. B. 29, *ante*, pp. 13—15, considered; *Robinson v. Dunkley*, 15 C. B., N. S. 478, *ante*, pp. 30, 31, followed; *Rolleston v. Cope*, L. R. 6 C. P. 292; 1 H. & C. 488; 40 L. J. C. P. 160; 19 W. R. 927; 24 L. T., N. S. 390 (*a*).

*Amount of expense voluntarily incurred by landlord in improving his property, but not necessary to obtain the rent essential to qualify, not a charge to be deducted in ascertaining net annual value.*

WEST RIDING (S. DIVISION) OF YORKSHIRE. Tenants in common in fee of houses and lands voluntarily spent a sum of money in laying on water to the houses for the convenience of their tenants, who consequently had to pay an increased rent.

The amount of this expenditure, if included among the necessary outgoings to be deducted in ascertaining the net annual value of the property, which, without such deduction, was sufficient to qualify, would have left less than 40s. a year for each owner.

Held, that as the outlay was not necessary to give the premises a qualifying value, such deduction ought not to be made: *Buckley v. Wrigley*, L. R. 7 C. P. 185; 1 H. & C. 661; 25 L. T., N. S. 835.

(*a*) BOVILL, C. J., in delivering his judgment in the above case, laid down the following rule for the guidance of revising barristers:—

“The question in these cases in future for the revising barrister to consider will be, whether, taking the payments which have been paid for principal or purchase-money into account, and deducting the proper annual sums, independently of the payments on account of the principal, the claimant’s interest in the property is of the value of 40s. by the year. If his interest in the property be found to be of that value, he will be entitled to the franchise, otherwise his claim to be placed on the list of voters must be disallowed.”



*The Thames Navigation Act, 1870 (section 10, sub-section 6), has not the effect of enfranchising the shareholders in Putney Bridge in respect of their shares : see *Tepper v. Nicholls*, ante, pp. 36—38.*

MIDDLESEX AND EAST SURREY. Twenty-three persons claimed in the parish of Fulham, and thirty-six in that of Putney, in respect of “freehold shares in Putney Bridge.”

Since the decision in *Tepper v. Nicholls*, ante, pp. 36—38, the Thames Navigation Act, 1870 (33 & 34 Vict. c. 149), had passed. By that Act (section 10, sub-section 6), *the bridge and lands belonging thereto, as well as the tolls, were vested in the committee of management* (six persons selected by the shareholders from their own body to manage their affairs), and their successors for the time being, “*subject to the trusts on which the same were held at the passing of this Act.*”

In all other respects the facts and documents in the present consolidated appeals were the same as those in *Tepper v. Nicholls*, and, *mutatis mutandis*, are to be taken as forming part of this case.

Held, that it having been rightly decided in *Tepper v. Nicholls* that the shareholders in the bridge had no qualification to vote in respect of their shares, the present claimants were similarly disqualified, and had acquired no additional right under the Thames Navigation Act, 1870, section 10, sub-section 6 : *Wadmore v. Dear*, *Wadmore v. Aries*, L. R. 7 C. P. 212 ; 1 H. & C. 687 ; 41 L. J. C. P. 49 ; 20 W. R. 239 ; 26 L. T., N. S. 28.

*Allottee of corporation land of the borough of Stafford, under bye-law of 1836, has no freehold interest therein.*

WEST STAFFORDSHIRE. The Corporation of Stafford were for many years before the Municipal Corporation Act, 1835, possessed of certain lands in the borough, which were held and enjoyed as follows :—

Each member of the town council had two acres for his life, and his widow after his decease during the continuance of her widowhood, and residence in the borough.

The rest of the lands were held in allotments of one acre each by persons selected by the mayor, and rents varying in amount were paid in respect of such occupation.

In 1836 a bye-law was passed by the council, which provided that such of the lands as were then, and should thereafter become, vacant, should be held and enjoyed by none other than "the poor and necessitous burgesses of the borough," or their widows, respectively, resident within the borough; that all allotments thereafter to be made should be of one acre each, and that the lands thus to be allotted should be held at a certain rent, the amount thereof and days of payment to be fixed by the council from time to time, as occasion should require, at the reasonable discretion of the council. The bye-law further provided, that for the purposes thereof only such burgesses should be considered "poor and necessitous" as should be declared to be so by a majority of the council, and that in selecting occupants two grounds of preference should be observed alternately, viz., seniority as a burgess, and number of children at home under the age of ten years. Members of the council were to be incapable of holding.

One of the burgesses had been declared by a meeting of the council, held in 1869, to be a "poor and necessitous" burgess within the bye-law of 1836, and had been admitted to an acre of the land in question, under an order of the council, which ordered that such acre should be delivered to him "as tenant thereof to the council, and that he do pay 5s. entrance money, and 5s. per annum as and for rent, until further notice."

Held, that the interest of the burgess in the land to which he had been so admitted was determinable at the will of the council, and therefore did not

amount to a freehold estate for life, so as to entitle him to a county vote: *Fernie v. Scott*, L. R. 7 C. P. 202; 1 H. & C. 718; 41 L. J. C. P. 20; 20 W. R. 236; 25 L. T., N. S. 836.

*Clergyman having a borough vote as occupier of his parsonage house may, notwithstanding section 24 of Reform Act, 1832, have also a vote for the county in respect of his pew rents (if of a nature to qualify), although such parsonage house and pew rents together constitute the benefice.*

**NORTH-WEST LANCASHIRE.** The respondent was on the register of voters, for the township of Preston, in respect of "freehold land and pew rents, St. Mary's Church," St. Mary's Street.

He was minister of St. Mary's Church, which was situate in the parliamentary borough of Preston, and, as such minister, occupied the parsonage house, which gave him a vote for the borough.

The land mentioned in the description of qualification on the register was wholly unprofitable, but, under the "sentence of consecration" of the church, the respondent was entitled to "the residue of pew rents," which the churchwardens, who had the duty of letting the pews, paid him as his stipend, after deducting certain sums for the services of the church.

The sum thus received by the respondent had always exceeded £100 a year.

The case did not show how the pew rents could confer a freehold qualification, but merely reserved the question whether they could, notwithstanding 2 Will. IV. c. 45, s. 24, be severed from the occupation of the house (which was part of the benefice), so as to give a separate qualification for the county.

Held, that there was nothing in that section to prevent them from being so severed, and consequently that the respondent (assuming the pew rents to give him a qualification) was entitled to have his name retained on the county register: *Beswick v. Alker*,

L. R. 8 C. P. 265; 2 H. & C. 36; 42 L. J. C. P. 26; 21 W. R. 72; 27 L. T., N. S. 423.

*Right to receive money payments out of realty profits, such payments being of undefined amount, and contingent on a surplus, is neither an equitable interest in land, or in any rent issuing thereout.*

NORTH DURHAM. The younger brethren of the Hospital of King James, Gateshead, claimed votes in respect of "freehold land, freehold coal mines, freehold rent-charges (a) or ground rent."

The hospital, which was incorporated, consisted, under a re-foundation charter of 1610, of a master and three "Ancient Brethren," in whom lands were vested by such charter.

The bishop was empowered by an Act of parliament (51 Geo. III. c. 116) to make statutes for the government of the hospital, and for the increase (*ad libitum*) of the number of the brethren. Statutes were accordingly made, under which the master appointed additional brethren, who were called "The Younger Brethren;" but they formed no part of the corporation. They were appointed for life, being removable only for drunkenness or immorality. No instance of dismissal had ever been known.

The hospital estates were under the management of the master, who was to receive the revenues, and, after paying thereout the taxes, repairs, and other outgoings, was to retain one-third of the net revenues for himself, pay £25 a year to each of "The Ancient Brethren," and £70 a year to the chaplain, and after reserving a balance not exceeding £60 for current expenses, to divide annually the residue between "The Younger Brethren," yet so that no "Younger Brother" should receive more than the share of each of "The Ancient Brethren."

The share of each "Younger Brother" had always, in fact, amounted to upwards of £24 a year.

There was no hospital building in existence, and

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(a) See *ante*, note (b) on p. 7.

“The Younger Brethren” did not occupy any part of the property belonging to the hospital.

Held, that the claimants had neither an equitable interest in the land, or a rent-charge (a) thereon, and, therefore, were not entitled to be registered: *Simey v. Marshall*, L. R. 8 C. P. 269; 2 H. & C. 1; 42 L. J. C. P. 49; 21 W. R. 123; 27 L. T., N. S. 581.

*Grant of rent-charge (a) to three persons, their heirs and assigns, to the use of same three persons, their heirs and assigns for ever, as tenants in common, is a grant operating at common law, and not under Statute of Uses.*

*Grantees of rent-charge (a) so conveyed, not in “actual possession” thereof, within section 26 of Reform Act, 1832, until payment of rent.*

SOUTH-EAST LANCASHIRE. B., C., and D. claimed in 1872 to be registered, each in respect of one-third share of rent-charge (a) issuing from freehold land and buildings.

A., being seised in fee of certain lands, messuages, and hereditaments, by indenture dated 13th October, 1871, granted out of them “unto B., C., and D., and their heirs, one perpetual yearly rent-charge (a) of £9, to be payable by equal half-yearly payments on 5th April and 5th October in each year,” the first payment to be due on 5th April, 1872, “to hold the said rent-charge (a) unto the said B., C., and D., their heirs and assigns, to the use of the said B., C., and D., their heirs and assigns for ever, as tenants in common, and in equal shares.”

The moiety of the rent-charge (a) due on 5th April, 1872, was paid and divided between the grantees.

Held, first, that the use being specific and not inconsistent with the rest of the habendum, the whole of the habendum must be read as specific, and so read, the deed operated as a grant at common law, and not under the Statute of Uses; and therefore, secondly,

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(a) See *ante*, note (b) on p. 7.



upon the authority of *Murray v. Thorniley*, 2 C. B. 217, *ante*, p. 7, and *Hayden v. Twerton*, 4 C. B. 1, *ante*, pp. 7, 8, that the grantees had not been in the "actual possession" of the rent-charge (*a*) for six calendar months next previous to the last day of July, as required by 2 Will. IV. c. 45, s. 26, and were, consequently, not entitled to be registered in 1872: *Webster v. Ashton-under-Lyne* (Orme's case), L. R. 8 C. P. 281; 2 H. & C. 60; 42 L. J. C. P. 38; 21 W. R. 171; 27 L. T., N. S. 652 (*b*).

*Grantee of rent-charge (a) under Statute of Uses is in "actual possession," within section 26 of Reform Act, 1832, from date of execution of the deed.*

SOUTH-EAST LANCASHIRE. The appellant claimed to be registered in respect of "share of rent-charge (*a*) issuing from freehold land and houses."

By a deed executed on 29th January, 1872, and made between one M. of the first part, the appellant and sixteen other persons of the second part, and the appellant and one W. of the third part, the said M., being seised in fee simple of certain lands in A., granted to the parties of the third part, and their heirs, an annual rent-charge (*a*) of £35 14s., to be payable by equal half-yearly payments on 29th January and 29th July in each year, the first payment to be made on 29th July then next, and to be charged upon the said lands; to hold the said rent-charge (*a*) unto the parties thereto of the third part and their heirs for ever, with power of distress, "to the use of the said parties hereto of the second part, and their respective heirs and assigns, as tenants in common and not as joint tenants."

The moiety of the said rent-charge (*a*) due on 29th July, 1872, was paid on 30th July, 1872.

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(*a*) See *ante*, note (*b*) on p. 7.

(*b*) See remarks on the above case in *Williams on Settlements*, pp. 5, 6.

Held, that as the deed operated under the Statute of Uses, the appellant was, by force of that statute, in actual possession of the rent-charge (*a*), within 2 Will. IV. c. 45, s. 26, immediately on the execution of the deed, and was, therefore, entitled to be registered in the year 1872: *Heelis v. Blain*, 18 C. B., N. S. 90, *ante*, pp. 35, 36, followed.

*Semble*, that it is competent for the court, although a court of appeal in registration cases, to review its previous decisions, and overrule them if manifestly wrong.

*Semble*, that section 66 of 6 Vict. c. 18, makes the judgment final only in the case in which it is given (*b*): *Webster v. Ashton-under-Lyne* (Hadfield's case), L. R. 8 C. P. 306; 2 H. & C. 89; 42 L. J. C. P. 146; 21 W. R. 637; 28 L. T., N. S. 901.

*The fact of trustees having an absolute power of sale over a rent-charge (a) does not preclude cestui que trust from having a freehold interest therein, if, in the event of sale, trustees are accountable to cestui que trust for proceeds thereof.*

NORTH-EAST LANCASHIRE. The appellant claimed to vote in respect of one fifty-fourth share of a freehold rent-charge (*a*), to which he was entitled as one of thirty-four "beneficiaries" under a deed of 28th January, 1875.

By the deed, which was expressed to be made between the owners in fee of a rent-charge (*a*) of £120 (described in the deed as trustees), and thirty-four persons (described therein as beneficiaries), after reciting an agreement by the trustees and each of the beneficiaries for the sale to him of the beneficial interest in one fifty-fourth share of the said rent at the price of £52 5s., it was declared that the trustees, their heirs and assigns, should stand seised of one undivided fifty-fourth share of the said rent, and the

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(*a*) See *ante*, note (*b*) on p. 7.

(*b*) See *Roberts v. Percival*, 18 C. B., N. S. 36.

remedies for enforcing payment thereof, &c., in trust for each of the beneficiaries, his heirs and assigns, absolutely, and of the remaining twenty shares in trust for themselves, their heirs and assigns, as tenants in common, in equal shares. There was a covenant by each beneficiary that if at any time he should desire to sell his share in the said rent and premises, it should be first offered to the trustees for the time being at a price to be ascertained in case of dispute by arbitration, and a similar covenant by each trustee with his co-trustees as to his own beneficial share. Then followed a declaration that the trustees for the time being should have an absolute power of sale over the said rent and premises exerciseable at their or his discretion, without any further consent on the part of any person.

Held, that the trustees could not exercise the power of sale contained in the deed without being accountable to the beneficiaries for the proceeds; consequently that the appellant took a freehold interest in his beneficial share, and was entitled to the county franchise in respect thereof: *Ashworth v. Hopper*, L. R. 1 C. P. D. 178; 2 H. & C. 283; 45 L. J. C. P. D. 99; 24 W. R. 187; 33 L. T., N. S. 667.

*Two distinct rent-charges (a) may be joined together to make up requisite value.*

**NORTH-EAST LANCASHIRE.** The appellant was on the register of voters in respect of freehold rent-charges (a).

He was the owner in fee of two rent-charges (a) issuing out of distinct estates, each of such rent-charges (a) being below, but together exceeding, 40s., in annual value.

Held, that the appellant was the owner of "free tenement" of the required value, within 8 Hen. VI. c. 7, and was, therefore, entitled to the franchise: *Wood v. Hopper*, L. R. 1 C. P. D. 192; 2 H. & C.

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(a) See *ante*, note (b) on p. 7.

311; 45 L. J. C. P. D. 108; 24 W. R. 187; 33 L. T., N. S. 531.

*Rent-charge (a) of sufficient value may qualify, although there be no present power of distress available.*

**SOUTH HANTS.** The appellant claimed in respect of a freehold rent-charge (a).

By an indenture dated 29th September, 1874, the reversion in fee of land was conveyed to one C., subject to certain long leases, each created by indenture of demise in 1864. In each of the leases a ground-rent was reserved, with a power of re-entry on default. These leases were still subsisting.

By indenture dated 15th January, 1875, C. granted to the appellant (in fee) a yearly freehold rent-charge (a) of £2 10s., charged upon the said land, and the indenture contained a power of distress on default of payment of such rent-charge (a).

The reserved ground-rent was amply sufficient to pay the rent-charge (a) in question, and the appellant had actually received from C. the amount due in respect thereof.

Held, that the appellant was the owner of "frank tenement to the value of 40s. by the year," within 8 Hen. VI. c. 7, notwithstanding that the remedy by distress was not available before the determination of the leases: *Dawson v. Robins*, L. R. 2 P. C. D. 38; 2 H. & C. 317; 46 L. J. C. P. D. 62; 25 W. R. 212; 35 L. T., N. S. 599.

*Lessee for lives of part of waste of a manor, over which rights of common of pasture have been immemorially exercised by persons, who by their conduct are precluded from disputing lessee's title at least for his life, has a freehold interest in land demised.*

**PEMBROKESHIRE.** The respondent claimed a freehold vote in respect of land, formerly part of the

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(a) See *ante*, note (b) on p. 7.

waste of the manor of Newport, but which had, in 1861, been granted by the lord of the manor to the respondent under a lease for three lives, with a covenant to add lives.

Similar leases had been granted since 1838, but there was no evidence of any such lease previous to that date.

From time immemorial the burgesses of Newport had exercised rights of common of pasture over the waste of the manor; but for upwards of 100 years it had been the practice of the mayor and burgesses at their courts-leet and courts-baron to present to the lord individual burgesses for occupation of pieces of the common or waste lands, and most commonly with the addition, after naming such burgess, "he to agree with the lord for the rent." In all cases the persons so presented took possession of the apportioned plots of land, generally building cottages and other buildings thereon, and paid the rents to the lord which he had fixed, such rents being very small sums, varying according to circumstances. No duration of holding was specified in such presentments, but upon the death of the person presented, his personal representatives continued to occupy and pay rent to the lord without further reference to the court-leet.

The land comprised in the respondent's lease was presented to him, pursuant to the practice above set forth. Such land, when so presented, consisted of three several plots, and the presentments thereof to the respondent took place in 1841, 1852, and 1855, respectively.

The respondent had retained possession and paid rent to the lord, in accordance with the terms of his lease.

Held (no question of value being raised), that the respondent had a freehold interest entitling him to a vote: *Phillips v. Salmon*, L. R. 3 C. P. D. 97; 2 H. & C. 339; 47 L. J. C. P. D. 53; 37 L. T., N. S. 579.



*Where a freeholder (already on register) is objected to, revising barrister has no power to entertain any objection other than that stated in the notice of objection.*

*Local description of qualification in fourth column may be amended by striking out surplusage.*

NORTH NORTHAMPTONSHIRE. A voter's qualification was stated in the third column of the register as "freehold land," and the local description thereof in the fourth column was "Plots 166, &c." (specifying fifteen numbers), "Victoria estate."

The voter had parted with all the plots except one, which was freehold land of sufficient value to qualify him for the franchise.

A notice of objection served upon him stated, that the objection was grounded on the third column, and related to the nature of the voter's interest in the qualifying property.

The objection taken before the revising barrister was, that the qualification was misdescribed.

Upon the above facts it appeared to the barrister that the freehold land mentioned in the third column was not the freehold land then possessed by the voter, and that he, the revising barrister, had no power to amend the fourth column by striking out the plots which the voter had parted with. He, therefore, expunged the name from the register.

The court held—

1. That the barrister ought not to have entertained any other objection than the one stated in the notice (28 Vict. c. 36, s. 6).
2. That as the identity of the property was not changed by the diminution of it, he had power to amend under section 40 of 6 Vict. c. 18, and should have amended by striking out of the fourth column the numbers of the plots which the voter had ceased to own: *Smith v. Woolston*, L. R. 4 C. P. D. 73; 2 H. & C. 421; 48 L. J. C. P. D. 84; 40 L. T., N. S. 198.

*CESTUIS que trustent in receipt of rents and profits of land (devised on trust for sale for the benefit of themselves and others, but remaining unsold), do not, if precluded from electing to keep the land unconverted, possess an equitable freehold estate therein, inasmuch as it is within the power, and is the duty, of the trustees to sell.*

**NORTH-EAST LANCASHIRE.** Three persons (parties to a consolidated appeal) were on the register of voters, each in respect of a share of copyhold cottages, and they were objected to under the following circumstances:—

A testator devised copyhold cottages to trustees on trust to sell the same, and to stand possessed of the proceeds, and pay the interest and dividends thereof to his wife during her widowhood, and after her decease or marriage on trust for such of his children as should be living at the time of his decease, to be equally divided between them. The share of a son to be vested and payable to him on his attaining the age of twenty-one, and the share of a daughter to be vested in her at twenty-one or marriage; and the trustees were directed to invest the share of a daughter, and pay the interest to her during her life for her sole and separate use, and after her death were to stand possessed of her share and the annual produce thereof upon trust for her children, if sons, on their attaining twenty-one, and if daughters, at twenty-one or marriage. The wife predeceased the testator, who died in 1872, leaving three sons (the appellants) and one daughter him surviving. The trustees duly proved the will, and were in 1873 duly admitted to the copyhold cottages according to the custom of the manor.

The testator's daughter married and had issue, who were living, but were not of age.

Pursuant to a verbal arrangement amongst themselves (in which the daughter's husband concurred, but to which the trustees were no parties), the testa-

tor's children, being of age, had agreed to keep the cottages unconverted, and the rents (about £50 per annum) were received by the trustees and divided amongst them.

Held, that, the children of the testator's daughter being infants, no election could be made to take the cottages in their actual state; and, although the appellants, being in receipt of their respective shares of the rents of the cottages, had an interest in land, it was within the power, and was the duty, of the trustees to determine such interest by sale; and consequently, that the appellants had not such an estate (legal or equitable) in the copyhold cottages as to entitle them to county votes under 30 & 31 Vict. c. 102, s. 5: *Spencer v. Harrison*, L. R. 5 C. P. D. 97; Colt. Reg. Cas. 61; 49 L. J. C. P. D. 188; 41 L. T., N. S. 676.

*The words "land occupied together with a house, &c.," in section 24 of Reform Act, 1832, refer not merely to contemporaneous occupation of the qualifying premises, but also to a user of them for a common purpose.*

**NORTH NORTHAMPTONSHIRE.** The respondent was on the parish of Peterborough list of voters in respect of his ownership of land. He had since May, 1877, been the owner in fee simple of a piece of freehold land in Padholm-road, Peterborough, within the borough of Peterborough, the yearly value of such land exceeding the sum of £2.

There was no building on the land. The respondent was, and had for some time prior to his becoming the owner of the land in question been, the owner in fee simple, and also the occupier, of a house in the borough of Peterborough, and he was entitled to a parliamentary vote for the borough in respect of it.

The respondent's land in Padholm-road was used

by him temporarily as garden ground, and was distant from the house about one mile.

It was objected at the revision court that the respondent was not entitled to his county vote, on the ground that the land was "occupied together with" the house, within the meaning of section 24 of 2 Will. IV. c. 45, and their occupation conferred upon him the right of voting for the borough.

The revising barrister overruled the objection and retained the name.

The court held, that the words "occupied together with" in section 24 of 2 Will. IV. c. 45, have a more extensive meaning than contemporaneous occupation, and point to a user of the qualifying premises together for a common purpose, and that, there being no evidence in the case before the court of any such user of the two properties, the revising barrister had rightly decided that the land in question was not occupied by the respondent "together with" the house, so as to exclude him from the county franchise: *Sanders v. Smith*, Colt. Reg. Cas. 150; 50 L. J. C. P. D. 117, 118; 43 L. T., N. S. 438, 440.

*A rent-charge (a) issuing out of lands situate in more counties than one must, for the purposes of the franchise, be apportioned rateably to the quantity and value of the land in each county.*

NORTH NORTHAMPTONSHIRE. The respondent claimed a vote as a freeholder in the parish of Middleton, and was duly objected to.

The nature and description of his alleged qualification appeared on the list as follows:—

|                         |  |                    |
|-------------------------|--|--------------------|
| Freehold rent-charge on |  | Middleton.         |
| freehold lands.         |  | G. L. Watson, Esq. |

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(a) See *ante*, note (b) on p. 7.

By a deed dated 25th June, 1880, G. L. W. granted to the respondent and his assigns, during the joint lives of the said G. L. W. and the respondent, a yearly rent-charge of £100, to be charged upon lands situate partly in the parish of Middleton, in the county of Northampton, and partly in the county of Leicester. These lands contained altogether 220 acres, 3 roods, and 15 perches, of which 211 acres, 1 rood, and 24 perches, were in the county of Leicester, and 9 acres, 1 rood, and 31 perches, in the parish of Middleton.

The deed of grant contained the usual powers of entry and distress (in default of payment of any part of the rent-charge<sup>(a)</sup>) into and upon the premises charged, or any part thereof.

Although the annual value of the land in Northamptonshire was considerably above £5, yet, if the rent-charge were rateably apportioned upon the whole of the lands charged therewith, the proportion issuing out of the lands in the county of Northampton would be below £5, *i.e.*, £4 5s. 6d. <sup>(b)</sup>.

The revising barrister allowed the respondent's claim, being of opinion that, owing to the powers of distress and entry (contained in the deed of grant) upon any part of the premises charged, the rent-charge need not be apportioned rateably to the quantity or annual value of the lands in the two counties, but that the whole, or any portion of it, might be deemed, for the purposes of the franchise, to be charged upon and issuing out of, the land in the county of Northampton.

(a) See *ante*, note (b) on p. 7.

(b) It seems to have been assumed throughout this case that a life rent-charge is included in the term "tenements" in section 18 of the Reform Act, 1832 (amended as to value by section 5 of the Representation of the People Act, 1867), and consequently that such rent-charge must, for the purposes of the franchise, be of the clear yearly value of £5. See *Druitt v. Christchurch*, *post*, pp. 73, 74.



The court, reversing the decision, held, in accordance with the principle of apportionment laid down in *Barrow v. Buckmaster* (12 C. B. 664, *ante*, p. 18), and *Mills v. Cobb* (L. R. 2 C. P. 95, *ante*, p. 41) (*a*), that the rent-charge (*b*) must, for the purposes of the franchise, be rateably apportioned upon the whole of the lands charged therewith: *Bearn v. Watson*, Colt. Reg. Cas. 268.

*One who occupied in a parliamentary borough his own freehold shop (capable of conferring a borough vote), and who also occupied a dwelling-house in the same borough, was held not entitled to the county franchise in respect of the freehold, although revising barrister for the borough had, under 41 & 42 Vict. c. 26, s. 28, sub-sect. 14, retained the dwelling-house qualification for voting, and noted, as to the freehold, that the occupier was not entitled to vote for the borough in respect thereof.*

WEST CORNWALL. The respondent was on the list of voters for the parish of St. Mary, Truro, and was duly objected to on the ground that the alleged qualification consisted of a freehold shop, occupied by the respondent, of such value as would confer on him the right of voting at parliamentary elections for the borough of Truro.

The facts of the respondent's occupation of the shop, and of its being of sufficient value to qualify for a borough vote, were admitted.

The respondent was also the occupier of a dwelling-house situate in the parish of St. Clement, in the borough of Truro, and he was on the borough list of parliamentary voters, both in respect of the dwelling-house and the shop.

In revising the borough list of parliamentary voters

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(*a*) See also *West v. Robson*, 3 C. B., N. S. 422.

(*b*) See *ante*, note (*b*) on p. 7.

on a day preceding the county revision, the barrister had, in compliance with sub-section 14 of section 28 of 41 & 42 Vict. c. 26, placed against the entry on such list of the respondent's name in respect of the freehold shop, a note to the effect that the respondent was not entitled to vote for the parliamentary borough in respect of that qualification, he being on the same list of voters in respect of another qualification, viz., the dwelling-house in the parish of St. Clement.

It was argued at the revision court on behalf of the respondent that by reason of the revising barrister having placed such note against the name of the respondent, he was entitled to have his name retained on the list of county voters for the parish of St. Mary, Truro, while it was argued by the appellant that the case came within section 24 of 2 Will. IV. c. 45, and that the revising barrister was, therefore, bound to hold the objection good.

The revising barrister held that the effect of the note made in pursuance of 41 & 42 Vict. c. 26, s. 28, sub-sect. 14, was to deprive the respondent, during the period for which both lists of voters (county and borough) would be in force, of his right of voting at parliamentary elections for the borough in respect of his freehold shop, and that he was, consequently, so far as that property was concerned, in the position of a person having no qualifying property in the borough, and that therefore section 24 of 2 Will. IV. c. 45, did not apply.

The barrister accordingly overruled the objection, and retained the name of the respondent on the list of voters.

The court, reversing the decision, held that the terms of section 24 of 2 Will. IV. c. 45, had in no way been qualified by 41 & 42 Vict. c. 26, and that they were clearly applicable to the present case: *Chilcott v. Bullen*, Colt. Reg. Cas. 282; 46 L. T., N. S. 63.

*Where a rent-charge (a) was granted by deed, which operated at common law, and was executed before commencement of the six calendar months next previous to 31st July in the year of registration, the first payment (although due in advance) not being in fact made until after commencement of such period: held, that grantee was not in "actual possession" (within section 26 of Reform Act, 1832,) of the rent-charge (a), so as to be qualified for the franchise in respect of it.*

**SOUTH HAMPSHIRE.** The respondent's name was entered on the list of voters in respect of a freehold rent-charge (a).

By a deed (operating at common law), dated 1st December, 1881, the respondent was entitled to a yearly rent-charge (a) of £2 for the life of the grantor, payable in advance, by two half-yearly payments on 1st December and 1st June in each year, free of all deductions and charges. The deed contained a power of distress.

The first payment of the rent-charge (a) was made on 1st June, 1882.

It was objected at the revision court that, no payment having been made before 1st February, 1882, the respondent had not been in "actual possession" of the rent-charge (a) for the period required by 2 Will. IV. c. 45, s. 26 (b). The revising barrister having allowed the vote,—

The court, on the authority of *Murray v. Thorniley*, 2 C. B. 217, *ante*, p. 7, reversed the decision: *Druitt v. Lane* (not reported, except in relation to a preliminary objection to the hearing of the appeal, see *post*, "Practice").

(a) See *ante*, note (b) on p. 7.

(b) It was also objected that the respondent was seised of an estate for life of a rent-charge which was under the value of £5 per annum, and incapable of "actual occupation," and that he came within the disability created by section 18 of 2 Will. IV. c. 45 (amended as to value by section 5 of 30 & 31 Vict. c. 102). This point was not argued on the appeal, and the court gave no decision upon it. See *Druitt v. Christchurch*, *post*, pp. 73, 74.

*Where a married woman seised of freehold houses to her separate use conveyed the same by deed dated 12th January, 1882, to her husband in fee simple, it was held that such conveyance did not give the latter a title to the property, so as to qualify him for the parliamentary franchise in respect of it.*

ANGLESEY. The appellant was on the list of voters in respect of two freehold houses and lands in the town of Llanerchymedd. By a will dated the 30th of December, 1879, one John Hughes gave and devised unto his daughter, Catherine, and her heirs, all and singular his two freehold messuages and dwelling-houses situate, &c., in the town of Llanerchymedd, and declared that the said legacy and devise should be for her sole and separate use, and should be free from the debts, control, and engagements, of any husband whom she might marry.

The testator died in July, 1880. His daughter, Catherine, in October, 1880, married one Alexander McKillop (the appellant).

By an indenture dated the 12th of January, 1882, and made between Catherine McKillop (the testator's daughter) of the one part, and the said Alexander McKillop of the other part, after reciting the death of the testator and his devise of the said freehold messuages and dwelling-houses to his daughter, Catherine, the said Catherine McKillop as beneficial owner conveyed unto the said Alexander McKillop, her husband, all those two messuages, dwelling-houses, gardens, frontage, buildings, and premises, situate, &c., in the town of Llanerchymedd, to hold unto and to the use of the said Alexander McKillop in fee simple.

The appellant was objected to on the ground that he had no estate or interest under the said will and indenture or either of them in respect whereof his vote could be allowed.

The revising barrister held the objection valid, and

expunged the name of the appellant from the list of voters.

The point of law reserved by the barrister for the decision of the court was whether the appellant had under the said indenture any estate or interest qualifying him to vote in respect of the freehold houses and lands expressed to be conveyed to him as above stated.

The court were clearly of opinion that he had not, and accordingly affirmed the revising barrister's decision (a): *McKillop v. Griffith*. (Not reported.)

(a) The court doubtless regarded the case as being concluded by the common law principle that, husband and wife being one, a married woman cannot convey to her husband.

The case underwent very little argument, and the attention of the court was not fully directed to recent cases in equity relating to a wife's *jus disponendi* over real estate owned by her to her separate use.

A devise by a married woman of her separate real estate to her husband was held in *Taylor v. Meads*, 34 L. J. Ch. 203, to be a good devise; and in *Adams v. Gamble*, 12 Ir. Ch. Rep. 102, a conveyance by a married woman of her separate real estate to her husband by a deed (not acknowledged) was held valid. The result of the equity cases on this subject is stated by Lord HATHERLEY, L.C., in the following terms: "It cannot, I apprehend, be now disputed that when a married woman is the owner of real estate to her separate use, she is to all intents and purposes in the position of a *feme sole*, so as to be able to dispose of that estate by will or deed." L. R. 7 Ch. Ap. on p. 69.

This equitable doctrine is thus summarized in Macqueen's *Husband and Wife*: "Up to a recent period this point" (whether a married woman could convey her separate real estate otherwise than by deed acknowledged) "still remained in doubt, since it was held by many judges that a married woman could not dispose of real estate settled by will to her separate use without an express power of appointment or by act *inter vivos*, otherwise than by deed duly executed in conformity with the provisions of the Fines and Recoveries Act, so as to disinherit or bind her heir. It has now, however, been expressly decided by Lord Chancellor WESTBURY, in the leading case of *Taylor v. Meads*, that a married woman having real property settled to her separate use in fee, and not restrained from alienation, has, as incident to her separate estate, and without any express power, a complete right of alienation by instrument *inter vivos* (not acknowledged under the Fines and Recoveries Act) or by will." Macqueen's *Husband and Wife*, 2nd Ed., on pp. 330, 331. Again, in the same work it is laid down that "The wife being in equity considered a *feme sole* with reference to her



*A freehold rent-charge (a) for life of less than £5 annual value was held insufficient to confer county vote, for, being a tenement incapable of "actual and bonâ fide occupation," it is not comprised within the exceptions specified in section 18 of 2 Will. IV. c. 45 (amended as to value by section 5 of 30 & 31 Vict. c. 102).*

SOUTH HANTS. A. W. L. and E. L. L. claimed in respect of freehold rent-charges (a). The claimants were each entitled under two similar deeds, dated the 1st of December, 1881, respectively to the yearly rent-charge (a) of £2 charged upon a freehold messuage in Christchurch, to hold the said rent-charge (a) unto the grantee and his assigns during the life of the grantor. It was objected that the claimants were seised of an estate for life of rent-charges (a) under the yearly value of £5; that such rent-charges (a) were incapable of actual and *bonâ fide* occupation; and that the claimants, therefore, came within the disability created by 2 Will. IV. c. 45, s. 18.

The revising barrister was of opinion that the right to the rent-charge (a), and the payment thereof before the last day of January constituted an occupation of the rent-charge (a) sufficient to entitle the claimants to the franchise within sections 18 and 26 of 2 Will. IV. c. 45, and he accordingly decided to

separate property, she may, of course, make a present of it to her husband; although at law there is, in general, no such thing known as a *donatio inter virum et uxoem*:" Macqueen's Husband and Wife, 2nd Ed., on p. 331.

If the equitable doctrine stated above be applicable to the facts in *McKillop v. Griffith*, the appellant, it would seem, took under the deed of the 12th of January, 1882, an equitable estate in the property expressed to be conveyed to him by such deed; and an equitable freehold estate suffices, as is well known, to confer the parliamentary franchise.

It will be observed that the date of the deed was subsequent to the commencement of the Conveyancing and Law of Property Act, 1881; that Act was referred to by counsel for the appellant, but the court held that it did not apply.

(a) See *ante*, note (b) on p. 7.

retain the names on the list of voters. The court reversed the decision, holding that the rent-charges (*a*) in question being each of less than the clear yearly value of £5, and incapable of actual occupation, could not confer the county franchise. *Druitt v. Christchurch*, L. R. 12 Q. B. D. 365; 1 Colt. Reg. Cas. 328; 53 L. J. Q. B. D. 177; 32 W. R. 371.

*Grant of rent-charge (a) by A. to B., C. and D. and their heirs, to the use of the said A., B., C. and D., their heirs and assigns for ever, held to operate under the Statute of Uses in relation to B., C. and D., as well as in relation to A., so that B., C. and D. were in the "actual possession" of the rent-charge immediately on the execution of the deed.*

SOUTH-EAST LANCASHIRE. The appellant was on the list of voters (revised in 1883) in respect of "one equal fourth share of freehold rent-charges (*a*)."

Of the said rent-charges (*a*) (three in number), two for £11 6s. and £7 7s. 1d. were created in 1865, and one for £22 in 1875. By indenture executed upon, and dated, 11th January, 1883, one J. L. (the owner of the rent-charges (*a*) in question) conveyed the same to his three sons, A. L. (the appellant), R. L. and F. W. L., and their heirs, to the use of the said J. L., A. L., R. L. and F. W. L., their heirs and assigns for ever, in equal one-fourth shares as tenants in common. The appellant not having received his share of the rent-charges (*a*), or any portion thereof, before the last day of July, 1883, it was objected that he had not been in the "actual possession" of his share, or "in receipt of the rents and profits" thereof, for the qualifying period, under section 26 of 2 Will. IV. c. 45.

The revising barrister was of opinion that the deed operated as a reservation by the grantor of one-fourth of the rent-charges (*a*) for himself, and as a gift of the remaining three-fourths to his three sons in equal one-fourth shares as tenants in com-

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(*a*) See *ante*, note (*b*) on p. 7.

mon, and that as there was no third party intervening between them and the grantor, the appellant took his one-fourth share by force of the common law, and the Statute of Uses did not apply, and he, therefore, disallowed the vote.

The court (reversing the decision) held, that, as J. L. (not being a grantee to uses) took under the Statute of Uses, the appellant took in the same way, and consequently was, in accordance with the doctrine in *Heelis v. Blain* (*ante*, pp. 35, 36), in “actual possession” of his share of the rent-charges (*a*) immediately on the execution of the deed, although he had not in fact received any portion of the rents: *Lowcock v. Broughton*, L. R. 12 Q. B. D. 369; 1 Colt. Reg. Cas. 335; 53 L. J. Q. B. D. 144; 32 W. R. 247.

*Shareholders in the Stock Exchange (an unincorporated company) have no such equitable interest in the land on which that institution and its appurtenances are built as to qualify them for a county vote as freeholders, their interest being only in the profits of the concern.*

MIDDLESEX (HORNSEY DIVISION). Objection was duly made to the retention of the appellant’s name in the list of ownership voters, wherein the entry was as follows:—

|                             |   |  |                         |
|-----------------------------|---|--|-------------------------|
| Watson, Charles<br>William. | 2, Crown-court,<br>Threadneedle-<br>street. | Share in free-<br>hold tene-<br>ments. | Stock<br>Ex-<br>change. |
|-----------------------------|---|--|-------------------------|

The appellant was one of 1,040 proprietors in the undertaking called the Stock Exchange, situate in the parish of St. Bartholomew, in the City of London.

The objects of the said undertaking as defined in an indenture of 31st December, 1875, were the maintenance of the Stock Exchange building be-

(a) See *ante*, note (b) on p. 7.

longing to the said proprietors, with its appurtenances, and the erection and maintenance of any other buildings in the City of London, and providing the same with suitable furniture, fittings, and accommodation, and the employing of the said buildings already erected, or to be erected, for the transacting of buying and selling English and foreign stocks and shares in public and other companies, with, under, and subject to the powers and regulations of the said deed, and the rules and regulations to be made pursuant thereto.

The said undertaking was first constituted under the provisions of a deed of settlement dated 27th March, 1802, a copy of which was annexed to the special case.

By the indenture of 31st December, 1875, which was made under power reserved in the deed of 1802, between the trustees and managers at the date of the said indenture of December 31st, 1875, and the then proprietors (including the predecessor in title of the appellant), the said deed of the 27th March, 1802, was annulled, except as appears by the said deed of 31st December, 1875, a copy of which was also annexed to the case.

Except so far as the said deed of 1802 may subsist and be in force, the Stock Exchange is governed and regulated by the said deed of 1875.

From the recitals of the indenture of 1802 it appeared that certain persons, parties to the deed, had associated themselves together for the purpose of providing a Stock Exchange in London, and that sums of money had been subscribed and land purchased with part of such money for the purpose. The deed then proceeded to vest the lands in certain of such parties as trustees upon the trusts thereafter declared. It was declared that the lands so purchased and the remainder of the moneys subscribed should be considered the capital or stock of the undertaking, and should be divided into 400 shares of £50, and that the parties to the deed should be the proprietors

thereof proportionally to the amount of the sums of money set opposite to their respective names in the schedule. It was further provided that the funds of the undertaking should be vested in the trustees.

Provision was made for the management of the undertaking partly by the trustees, and partly by a committee for general purposes elected at an annual meeting of proprietors and subscribers, for the investment of funds received from time to time, for the declaration of annual dividends, for the admission of subscribers to the Stock Exchange, and the fixing the annual rate of subscription at which they should be admitted to attend and transact business there, and for other matters. These provisions, however, were superseded by the deed of 1875.

By the indenture of 31st December, 1875, in pursuance of the powers reserved for that purpose in the deed of 1802, fresh trusts were declared with respect to the property then vested in the trustees of that deed. It was provided that the hereditaments and premises, and other property of the undertaking, should be vested in certain trustees and managers freed from the trusts of the former deed, except so far as expressly reserved or confirmed, upon the trusts and subject to the covenants, agreements, and declarations thereafter contained, and it was thereby covenanted and agreed and declared between the parties thereto as followed. The principal covenants and provisions of the deed were, in substance, these: It was provided that "proprietors" should mean the persons for the time being registered as shareholders in the undertaking; that "members" should mean persons from time to time entitled to attend, and in their own right to transact business on the Stock Exchange in accordance with the deed; that the capital or stock of the undertaking should consist of the hereditaments and premises described in the first schedule, and all other the property, real and personal, vested in the trustees and managers in trust for the purposes of the undertaking, and that the



same should be deemed to be of the nominal value of £240,000, divided into 20,000 shares, on each of which the sum of £12 was credited and deemed to be paid up, and every share should be distinguished by a denoting number. Provision was made for the exchange of the existing shares of the proprietors for the new shares. A share register was to be kept and certificates issued of the shares, and calls, if necessary, might be made on such shares. Every share in the undertaking was to be transmissible as personal estate. The shares were made transferable by transfer, in writing, in the form determined by the trustees and managers, and a register of transfers was to be kept. No transfer, however, could be made to any person not at the date thereof a member of the Stock Exchange, or to any person not approved by the trustees and managers. Shares of proprietors ceasing to be members of the Stock Exchange, dying, or becoming bankrupt or lunatic, were to be transferred to some other person, subject to the conditions of the deed, within twelve months, and, if not so transferred, the trustees and managers might purchase or sell the same, subject to the conditions of the deed, and, if they purchased, might pay for the shares out of the funds of the undertaking. It was provided that the trustees and managers should have the management of the property, moneys, funds, and securities, and affairs of the undertaking, and might for that purpose do all acts not specially reserved to a general meeting or the committee for general purposes. They were to appoint and remove secretaries, clerks, door-keepers, porters, and other officers and servants, and fix their salaries and wages, and pay the same out of the funds of the undertaking. They were also empowered to pay pensions to such officers and servants. They were to pay out of the funds of the undertaking all rents, rates and taxes, and other outgoings and expenses. They were empowered to purchase or take on lease any freehold or leasehold heredita-

ments for the purposes of the undertaking. They might, on behalf of the undertaking, under the authority of a special resolution, borrow money on mortgage of any part of the property of the undertaking. They were to settle the entrance fee or fees, if any, and annual subscription at which members and their clerks should be admitted to attend and transact business at the Stock Exchange. They were to fix the charges to be made for the use of desks, sittings, drawers, and other exceptional accommodation to be permitted to members, and for the use of boxes and safes in the strong rooms of the Stock Exchange. It was further provided, that all moneys belonging to the undertaking, and not required for immediate use, should be invested in such securities, or otherwise employed as the trustees and managers should from time to time determine. No person, whether a proprietor or not, other than such persons as should have been admitted members by the committee for general purposes, and their clerks, was to be permitted to enter or frequent the Stock Exchange. Provision was made for the holding of ordinary and extraordinary general meetings of the proprietors. It was provided that a general meeting might from time to time resolve that any part of the profits of the year, not exceeding 10 per cent., should be appropriated to the reserve fund, which was to be applicable to repairs and maintenance of the buildings belonging to the undertaking; that all dividends on shares should be declared by a general meeting, and should be paid only out of the net profits of the undertaking; that the net profits of the undertaking should be the sum declared to be such by the trustees and managers; and that no larger dividend should be declared than might be recommended by the trustees and managers, but that the general meeting might, if it thought fit, declare a smaller dividend. A committee for general purposes was to be annually elected by the members of the Stock Exchange, which committee was to admit such per-

sons, whether proprietors or not, as they thought proper, to be members of, and to attend and frequent, the Stock Exchange for the transacting therein the business of a stock broker or jobber, upon payment of the annual subscription fixed by the trustees and managers for such admission; and such committee was to regulate the transaction of business on the Stock Exchange, and to make rules and regulations in relation thereto. They had also power to expel or suspend members. Power was reserved to the proprietors by special resolution to be passed by a majority of two-thirds of the proprietors, to repeal or alter the trusts of the deed, and make new regulations for the management of the affairs of the undertaking or the trusts thereof.

The land upon which the Stock Exchange and its appurtenances are built is freehold. The income of the Stock Exchange is made up almost entirely of fees paid for admissions to the Stock Exchange, and charges for the use of desks, sittings, drawers, and other exceptional occupation, and for the use of boxes and safes in the strong rooms; and, as to about one-fiftieth part of the said income, of dividends or interest on investments in Government and other securities. The gross annual value of the land and buildings was more than sufficient to yield to each proprietor the clear annual sum of 40s. over and above all charges. The undertaking of the Stock Exchange has never been registered as a company under the Companies Acts, or at all, nor has it been incorporated. The names of other persons whose names appeared in a schedule to the case were objected to under similar circumstances to those in the appellant's case.

It was objected to the retention of the appellant's name on the register, *inter alia*, that the share or interest of any proprietor of the Stock Exchange is not an interest in real estate, or, at any rate, not such an interest as to entitle him to the franchise. The revising barrister so decided, and expunged the

names of the appellant and the other persons whose names were included in the schedule.

The court, affirming the decision, held, that the shareholders intended, as they legally might, to vest the freeholds in the trustees free from any equitable interest in the individual members in the land itself, and to give to such members an interest (of the nature of personalty) in the profits of the undertaking (a): *Watson v. Black*, L. R. 16 Q. B. D. 270; 1 Colt. Reg. Cas. 418; 55 L. J. Q. B. D. 31; 54 L. T., N. S. 17; 34 W. R. 274.

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(a) *Frisby v. Black* (55 L. J. Q. B. D. 33, note) is substantially the same as *Watson v. Black*, and is governed by the same decision.

## COUNTY FRANCHISE—OTHER TENURES THAN FREEHOLD.

*Copyhold house in borough, of more than £10 annual value, let out to different tenants in distinct tenements, held not to give a vote for county, although yearly value of each tenement was insufficient for borough vote.*

NORTH DURHAM. A. was on the list of voters in respect of his ownership of a copyhold house, described in the list as "copyhold house, in tenements." The house in question was situate within the parliamentary borough of Sunderland, and was of the clear yearly value of £10. It consisted of two rooms, which A. let out separately, and as distinct tenements, to different tenants. But neither of such tenements was of sufficient value to give its occupier a vote for the borough.

Held that, as the two tenements into which the house was divided were not separate houses in the sense of their being under separate roofs, but formed parts of a house, which, if occupied by A., would have conferred on him a vote for the borough, A. was disqualified by section 25 of 2 Will. IV. c. 45, for the county franchise in respect of such house: *Proctor v. Annison*, 7 C. B., N. S. 48; K. & G. 297; 29 L. J. C. P. 90; 6 Jur., N. S. 656; 8 W. R. 140; 1 L. T., N. S. 187.

*Customary tenure in Staithes, in N. R. of Yorkshire, held to qualify under section 19 of Reform Act, 1832.*

NORTH RIDING OF YORKSHIRE. The houses in the village of Staithes, in the manor of Seaton, were held under a customary tenure, which had there obtained for a long period without alteration; and there was



no evidence of any other tenure having ever existed there.

The principal incidents connected with such tenure were as follows :—

The houses were occupied by tenants on the court-roll of the manor. The rent of each house was much smaller than its annual letting value, and had always continued the same. Each tenant on paying his rent received an acquittance from the agent of the Marquis of Normanby, who was lord of the manor. One instance only had been known of a notice to quit having been served on behalf of the Marquis on one of the tenants, and then the tenant did not quit. No action of ejectment had ever been brought against any one of them.

Each tenant repaired, and, when necessary, rebuilt, the house he held, and was rated and assessed as the owner thereof.

Persons desirous of being admitted as tenants applied for that purpose at the manor courts.

These courts were held under the presidency of the steward of the manor and in the presence of the Marquis's land agent.

The jury were chosen from the freeholders, and the tenants of houses, within the manor.

The list of suitors having been called over, the jury sworn, and other matters disposed of, the applications for admission as tenants were heard.

The applicant was presented by the bailiff of the manor to the steward, who was at the same time informed in what capacity the applicant sought admission, *e.g.*, whether as purchaser, devisee, heir-at-law, or as the case might be.

The steward then inquired of the land agent, and generally of the foreman of the jury as well, whether there was any objection to the applicant being admitted.

In most cases there was no objection, but occasionally a discussion arose, in which all the circumstances of the case (as well moral as legal) were gone into,

and then the steward decided, granting or refusing the application according to his judgment.

If the applicant was a purchaser, his application was almost always granted; so, also, if he claimed under the will of a deceased tenant; but there were many instances of a devisee having been rejected by the steward, and another person admitted instead, and this, although the devise was admitted to have been sufficient in point of form, and free from fraud.

The candidate's application having been granted, his name was inserted in its alphabetical place among the names of the other tenants.

He then took the oath of fealty, and paid a fee of 1s. 6*d.* to the steward; no fee was paid to the lord of the manor.

A change of tenancy often took place between the holdings of the courts.

In such cases the claim to be admitted as tenant was made to the land agent, who usually required a letter of recommendation from the foreman of the jury of the manor court last held. If the land agent assented, as he usually did, to the application, he sent a letter to that effect to the steward, who upon receipt thereof indorsed the incoming tenant's name on the court-roll; and at the next manor court the name was entered in its proper alphabetical place in the court-roll (*a*). For every admittance out of court the incoming tenant paid the steward a fee of 5s., but no fine was paid to the lord of the manor.

Subject to the above conditions, a purchaser, pledgee, devisee, or heir-at-law, as the case might be, was admitted tenant on the court-roll, and entered upon possession.

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(*a*) The case, although stating that an oath of fealty was taken by the incoming tenant, when admitted in the usual way, *in court*, contains no mention of such oath having been taken when the admittance took place *out of court*. As there could have been no reason for the existence of such a distinction, the omission is probably the result of inadvertence.

In selling or pledging no deeds or documents of any kind were used, nor was there any copy of the court-roll furnished to the incoming tenant.

When a tenant wished to sell, permission to do so was obtained from the Marquis's land agent, to whom an undertaking was sometimes given to pay over part of the purchase-money to meet arrears of rent due from the outgoing tenant.

The hand-bills of the sale of a house were usually headed "By permission of the Most Noble the Marquis of Normanby," and the house was therein described as "the property of the outgoing tenant."

Held, without deciding under what particular tenure the tenants in Staithes held their respective houses, that, having a permanent interest therein, they were entitled to the franchise, as being seised of "lands or tenements of copyhold or any other tenure" than "freehold," within 2 Will. IV. c. 45, s. 19; *Garbutt v. Trevor*, 15 C. B., N. S. 550; H. & P. 69; 33 L. J. C. P. 73; 10 Jur., N. S. 131; 9 L. T., N. S. 535; 12 W. R. 471.

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## COUNTY FRANCHISE—TERMS.

*Lessee for a term of sixty years of houses within a parliamentary borough, not excluded from county franchise by reason of one of the houses being such as to give a borough vote.*

NORTH WARWICKSHIRE. A. was on the list of voters in respect of "lease of houses and buildings for years."

He was lessee of a term over sixty years.

The lease comprised several houses at Aston, in the borough of Birmingham.

One of the houses was worth more than £10 a year; the remainder were individually worth less, but collectively more than that sum annually.

Each house was occupied by a distinct tenant, and in no case was any land occupied jointly with a house.

Held, that A.'s interest under the lease was divisible, and that, notwithstanding one of the houses comprised in the lease was of sufficient value to give a vote for the borough, he was not disqualified by 2 Will. IV. c. 45, s. 25, for a county vote in respect of the residue: *Webb v. Aston*, 7 Scott, N. R. 545; 5 M. & G. 14; 13 L. J. C. P. 57; 7 Jur. 1090.

*Assignee's equitable life interest in a term over sixty years does not qualify him for the franchise.*

WEST RIDING (S. DIVISION) OF YORKSHIRE. A claimant was on the list of voters at the revision of 1865 in respect of "one-sixth share of fourteen leasehold cottages, held for a term of 999 years."

The claimant's father by his will gave to trustees all his real and personal estate upon trust, as to one undivided sixth share, to pay the rents and annual

produce thereof to the claimant for life, with remainder to his children.

The testator was possessed for a term of 999 years of certain leasehold cottages, and it was in respect of one sixth share of the same that the claimant claimed to vote, the annual value of such share being more than £10 per annum.

Held, that as the claimant's equitable (a) interest in the unexpired residue of the term was subject to be defeated by his death he was not entitled to vote under 2 Will. IV. c. 45, s. 20, and 6 Vict. c. 18, s. 74: *Gainsford v. Freeman*, L. R. 1 C. P. 129; H. & P. 329; H. & R. 352; 12 Jur., N. S. 192; 35 L. J. C. P. 92; 13 L. T., N. S. 595; 14 W. R. 203.

*Leaseholders, whose names were properly on the register of county voters in 1867, in respect of dwelling-houses of less than £10 yearly value in parliamentary boroughs, deprived of such qualification by 2 Will. IV. c. 45, s. 25, and 30 & 31 Vict. c. 102, s. 59.*

SOUTH-EAST LANCASHIRE. B. was on the list of voters in respect of two leasehold houses (term, over sixty years), situate in the borough of Manchester.

At the time of the passing of the Representation of

(a) It is doubtful whether a leaseholder's *legal* interest, if only for life, in the unexpired residue of a term over sixty years would give a qualification any more than a life interest in equity, notwithstanding that, in contemplation of law, a chattel interest is less than an estate for life; see per BYLES, J., L. R. 1 C. P. 132.

No question was raised as to whether a mere equitable interest in a term for years (independently of its being for life only) would suffice to qualify. The omission from section 20 of 2 Will. IV. c. 45, of the words "at law or in equity," with reference to leaseholds, those words having been used in section 19 in relation to copyholds, is suggestive of a doubt on this point; but in *Tance's case*, Alcock, R. C. R. 269, it was held, on the construction of the Irish Reform Act, 1832 (2 & 3 Will. IV. c. 88), which, in so far as this point is concerned, corresponds with section 20 of the English Act, that a *cestui que trust* under an assignment of a lease for a term over sixty years was entitled to vote in respect of his interest in such term.



the People Act, 1867, he was rightly on the register of parliamentary voters for the then southern (a) division of Lancashire in respect of the property in question, neither house being of the yearly value of £10.

It was objected at the Revision Court (held in 1868) that B. was disqualified for the county franchise by section 25 of 2 Will. IV. c. 45, each house having become sufficient, under section 3 of 30 & 31 Vict. c. 102, to confer on the tenant or occupier thereof a vote for the borough.

The barrister allowed the objection, and expunged B.'s name from the list.

It was contended, on appeal, that, as B. had acquired the county franchise in respect of the houses in question *before* the passing of the last-mentioned statute, such franchise was reserved to him by section 56, the alleged disqualification applying (it was argued) only to claims made subsequently to 1867.

But the court held, affirming the revising barrister's decision, that B. was deprived of his county qualification by the joint operation of 2 Will. IV. c. 45, s. 25, and 30 & 31 Vict. c. 102, s. 59: *Chorlton v. Johnson* (Bunting's case), L. R. 4 C. P. 426; 1 H. & C. 49; 38 L. J. C. P. 37; 17 W. R. 141; 19 L. T., N. S. 560.

*A right by contract to have a ninety-nine years' lease granted at a future time, and on the performance of various conditions, does not confer a vote under 30 & 31 Vict. c. 102, s. 5, although intended lessee be let into possession pending fulfilment of conditions.*

NORTH DURHAM. A. claimed a vote in 1868 in respect of a "leasehold house."

By memorandum of agreement of 1st May, 1863,

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(a) This division of the county was sub-divided by 30 & 31 Vict. c. 102, s. 23, Schedule D., into south-eastern and south-western.

between the owners in fee of land, the trustees of a building society, and one C., after reciting that the land had been laid out as the sites for workmen's dwelling-houses, and that it was intended that such dwelling-houses should be built by means of the monthly contributions of one hundred workmen, to be selected by the trustees of the society, and that until such contributions were fully paid up, C. should advance, for the completion of the buildings, a sum not exceeding £7,000, to be repaid with interest out of the contributions, and that leases for ninety-nine years of the building sites should be granted to such workmen, *when C., with the consent in writing of the trustees, should require,—*

It was agreed that, in the meantime, and until such leases should be granted, the land and buildings thereon should be a security to C. for money advanced, with interest.

By memorandum of agreement of 18th June, 1864, between the trustees and A., the former agreed that the latter should have a lease of one of the sites in question and dwelling-house thereon for a term of ninety-nine years, subject to a ground rent, for the sum of £74, payable by instalments.

And it was agreed that A. should have immediate possession, and that within three months after the purchase-money and interest had been paid, and the rules of the society duly satisfied, and provided that A. should have observed and performed all the conditions contained in the agreement, and also all the rules and regulations of the society for the time being on his part to be performed, the trustees should give him a proper conveyance of the premises, subject to the ground rent.

A. had been let into possession; he had duly paid such instalments as had become due, and had observed all the rules and regulations of the society, but no lease had been granted to him, nor had C., who had not been repaid in full, required, or the trustees consented, that one should be granted.

Held, that A. was not the lessee of a term originally created for not less than sixty years within section 5 of 30 & 31 Vict. c. 102, and therefore not entitled to be registered (a): *Trotter v. Watson*, L. R. 4 C. P. 434; 1 H. & C. 216; 38 L. J. C. P. 100; 17 W. R. 330; 19 L. T., N. S. 785.

*Cestui que use of a chattel rent-charge, annual value £5, and originally created for more than sixty years, has no vote in respect thereof.*

**SOUTH-EAST LANCASHIRE.** By 30 & 31 Vict. c. 102, s. 5, a county vote is conferred upon every man who is entitled, either as lessee or assignee, to any lands or tenements of freehold, or of any other tenure whatever, for the unexpired residue, whatever it may be, of any term originally created for a period of not less than sixty years (whether determinable on a life or lives or not), of the clear yearly value of not less than £5.

S. claimed to be inserted in the register of voters for the township of Denton in respect of his interest under a deed of settlement, dated 5th January, 1837; such interest, as described in his notice of claim, was,

(a) The words of section 5 of 30 & 31 Vict. c. 102, with regard to terms over sixty years, are (except as to the reduction of value) identical with those of section 20 of 2 Will. IV. c. 45; consequently it is still open to argument (see the note to *Gainsford v. Freeman*, on p. 87) whether an *equitable* leasehold can give a qualification. A distinction was taken in *Trotter v. Watson* between an equitable interest in an ascertained legal term of the required length and value and an equitable right to the grant of a lease.

KEATING, J., in his judgment, held, on the authority of *Vance's case*, cited in the note above referred to, that the former would suffice, but expressed a doubt whether the latter would.

It may be that a right to the grant of a lease on the payment of money simply would be an equitable term and within the Act; but, if so, the circumstances must show a simple debt on one side and a lien for the money on the other. MONTAGUE SMITH, J., distinguished the right to a lease existing under such circumstances from one which is dependent on future conditions, which may or may not be performed.

“Annuity or rent-charge arising out of lands and buildings, held for a term over sixty years, determinable on lives.”

L., the settlor, being seised in fee of certain lands and hereditaments in Denton, conveyed them, after certain prior limitations since determined, to trustees for one hundred years, if S. (the claimant) and certain other persons named in the deed should so long live, to the use (*inter alia*), that S., his executors and administrators, should, during the said term of one hundred years, receive out of the rents and profits one annuity or yearly rent-charge of £10.

Held, that the words “lessee or assignee,” in section 5 of 30 & 31 Vict. c. 102, should be construed by reference to section 20 of 2 Will. IV. c. 45, and that being so construed, they mean the lessee, or assignee of the lease, of tenements capable of occupation; that S. was not entitled, either as lessee or assignee, to any such tenement, and therefore was not entitled to be registered: *Warburton v. Denton*, L. R. 6 C. P. 267; 1 H. & C. 432; 40 L. J. C. P. 49; 19 W. R. 210; 23 L. T., N. S. 729.

*Sub-lessee of term over sixty years is a lessee within  
30 & 31 Vict. c. 102, s. 5.*

SOUTH-EAST LANCASHIRE. S. claimed in respect of “leasehold houses,” term over sixty years.

He was sub-lessee for a period of not less than sixty years of, and was in actual occupation of, (a) a

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(a) It is remarkable that the proviso to section 20 of the Reform Act, 1832, whereby sub-lessees were prohibited from voting, unless they were in actual occupation, is not repeated in section 5 of the Representation of the People Act, 1867. However, in the event of a claim under that section by a sub-lessee not in occupation, it may, perhaps, be held that, by virtue of sections 56 and 59 of the Act of 1867, the proviso to section 20 of the Act of 1832 should be read into section 5 of the later Act: see per WILLES and BRETT, JJ., 1 H. & C. 716, 717; and per BRETT, J., L. R. 7 C. P. 201.

Should the contrary be held, the following anomaly will ensue—

house, the clear yearly value of which was £5, but under £10, over and above all rents and charges.

Held, that S. was a "lessee" within section 5 of 30 & 31 Vict. c. 102, and therefore entitled to the franchise: *Chorlton v. Stretford*, L. R. 7 C. P. 198; 1 H. & C. 712; 41 L. J. C. P. 37; 20 W. R. 236; 25 L. T., N. S. 810.

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that, whereas a sub-lessee of a term over twenty years is, by virtue of the above-mentioned proviso, incapable of voting as such unless in actual occupation, a sub-lessee of a term originally created for not less than sixty years will be under no such restriction.

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## COUNTY FRANCHISE—OCCUPATION (£50 RENTAL) (a).

*Different rents payable to different landlords cannot be joined so as to qualify under Chandos Clause.*

**SOUTH LANCASHIRE.** The respondent claimed a vote in respect of the “occupation of lands and buildings at a rental of £50 and upwards.”

He occupied the above-mentioned premises as tenant under two different landlords, and was *bonâ fide* liable to two distinct yearly rents, one to each landlord, in respect of the premises so occupied by him.

Each of such yearly rents was less than, but together they exceeded, £50.

Held, that the respondent was not “*bonâ fide* liable to a yearly rent of not less than £50,” within the meaning of 2 Will. IV. c. 45, s. 20, and was, therefore, not entitled to be registered: *Gadsby v. Barrow*, 7 M. & G. 21; 8 Scott, N. R. 799; 1 Lutw. 142; 14 L. J. C. P. 51; 8 Jur. 1031; B. & Arn. 283.

*On change of qualification, voter must send in a fresh claim, notwithstanding that the description (in the register) of old qualification may be equally applicable to new.*

**SOUTH NORTHAMPTONSHIRE.** A voter was described on the register (revised in 1847) as follows:—

|                |             |                                |                 |
|----------------|-------------|--------------------------------|-----------------|
| David Attfield | Cold Ashby. | Occupier of land<br>above £50. | Own occupation. |
|----------------|-------------|--------------------------------|-----------------|

Attfield had occupied a farm (of sufficient rental) in the parish of Cold Ashby, as tenant to L., for

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(a) This franchise, enacted by the Chandos Clause of the Reform Act, 1832, was practically superseded by the £12 rateable occupation franchise enacted by the Representation of the People Act, 1867, s. 6. The £12 rateable occupation franchise is now superseded by the £10 (annual value) occupation franchise enacted by s. 5 of the Representation of the People Act, 1884. That Act repeals the Chandos Clause, but saves the rights of persons on the register at the date of the passing of the Act (6th December, 1884). For the new provisions relating to the registration of £50 rental voters, see s. 11 of the Registration Act, 1885, and the second schedule thereto.

several years up to Lady-day, 1847, when he left it. At Michaelmas, 1846, he took another farm of W. (likewise of sufficient rental) situate in the same parish, and continued to hold it up to October, 1847.

He had not made any new claim.

Held, that Attfield, not having retained the *same* qualification, should have sent in a new claim under section 4 of 6 Vict. c. 18, and that, as he had not done so, his name must be expunged from the register: *Burton v. Gery*, 5 C. B. 7; 2 Lutw. 4; 17 L. J. C. P. 66; 11 Jur. 948; 10 L. T. 135.

*The committee of a lunatic's estate under letters patent, in actual possession of part of such estate, and rendering accounts to the court of chancery which were allowed, wherein he described himself as tenant, and debited himself with rent, held not to occupy as tenant.*

SOUTH NORTHAMPTONSHIRE. The respondent was on the list of voters in respect of his occupation of house and land.

His vote was objected to on the ground that he did not occupy as tenant.

He was appointed committee of a lunatic's estate under letters patent (21st June, 1 Vict.) whereby were granted to him the custody, regulation, occupation, disposition, and receipt, of all lands, tenements, houses, &c., belonging to the lunatic, with the rents and profits thereof, during the pleasure of the crown, and the continuance of the lunacy.

After this grant, some of the tenants of the lunatic quitted their farms, and the respondent entered upon the occupation of them, together with a house; received the produce to his own use and benefit; and in his annual accounts allowed by the court of chancery described himself as tenant, debiting himself with the rent.

Held, that the respondent acquired no estate in the property under the letters patent, but merely the

custody thereof, that he could not make himself a tenant by entering his name as such in the accounts, nor become one by the court of chancery allowing them, and consequently that he did not occupy as tenant, within 2 Will. IV. c. 45, s. 20: *Burton v. Langham*, 5 C. B. 92; 2 Lutw. 78; 17 L. J. C. P. 253; 12 Jur. 631.

*Rents of joint and single tenancies respectively cannot be joined to make up amount of rental necessary to qualify under section 20 of Reform Act, 1832, or section 73 of Registration Act, 1843, although both holdings are under same landlord.*

EAST KENT. R. was on the list of voters as an occupier of "house and land." He had for several years occupied, as sole tenant, a house with land, for which he was *bonâ fide* liable to an annual rent of £40. He had also occupied for several years, as joint-tenant with another, under the same landlord, other lands, for which he and his co-tenant were *bonâ fide* jointly liable to an annual rent of £64. The hiring of the two properties took place at different periods.

Held, that R.'s separate rent and his share of the joint rent could not be added together, so as to give him a qualification under either 2 Will. IV. c. 45, s. 20, or 6 Vict. c. 18, s. 73: *Smith v. Foreman*, 18 C. B., N. S. 144; H. & P. 231; 34 L. J. C. P. 93; 13 W. R. 291; 11 Jur., N. S. 42; 11 L. T., N. S. 673.

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## COUNTY FRANCHISE—OCCUPATION (£12 RATEABLE VALUE) (a).

*Rateable value, in order to qualify, may be made up of aggregate rateable value of lands occupied at the same time under different landlords; and it is no objection that such lands are separately rated.*

BEDFORDSHIRE. J. was objected to on the list of £12 occupiers for the parish of Sandy.

He had during the qualifying period occupied, as tenant, lands and tenements within the parish under four separate and distinct landlords, and had, during the time of such respective occupations, been separately rated in respect of each of them.

The rateable value of each piece of land was less than £12.

The rateable value of the several portions taken together exceeded that sum.

Held, that section 6, sub-sects. 2 and 3, of 30 & 31 Vict. c. 102, had been sufficiently complied with, and, therefore, that J. was entitled to be on the register: *Huckle v. Piper*, L. R. 7 C. P. 193; 1 H. & C. 680; 41 L. J. C. P. 42; 20 W. R. 235; 25 L. T., N. S. 809.

*Rate-book not conclusive evidence of "rateable value" under Representation of People Act, 1867, section 6, sub-sect. 2.*

BEDFORDSHIRE. H. claimed to be inserted in the list of voters in respect of his occupation of lands and tenements of the rateable value of £12.

He occupied the premises in question at an annual rent of £14, which was proved to be a fair rent.

The gross estimated rental was stated in the rate-book to be £14 9s., and the rateable value £11 12s. 6d.

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(a) This franchise (enacted by s. 6 of the Representation of the People Act, 1867) is superseded by the occupation qualification enacted by s. 5 of the Representation of the People Act, 1884.

The revising barrister being of opinion, on the evidence before him, that the property was of the real rateable value of £12, allowed the claim.

The court, affirming the decision, held, that the words "rateable value" in 30 & 31 Vict. c. 102, s. 6, sub-sect. 2, meant the *real* rateable value, and not that which appeared in the rate-book: *Cooke v. Butler*, L. R. 8 C. P. 256; 2 H. & C. 22; 42 L. J. C. P. 25; 21 W. R. 73; 27 L. T., N. S. 548.

*The words "land occupied together with a house, &c.," in section 25 of Reform Act, 1832, refer not merely to contemporaneous occupation of the qualifying premises under same landlord, but also to a user of them for a common purpose.*

NORTH NORTHAMPTONSHIRE. The respondent was on the list of £12 occupiers for the parish of Peterborough in respect of his occupation of land.

He had since 1869 occupied, as tenant to F., a close of land in Flag fen in the borough of Peterborough, the rateable value of such land being £12 or upwards. He subsequently became the occupier, also as tenant to F., of a house in the borough of Peterborough, and he enjoyed the borough parliamentary franchise in respect of it.

The house and land were more than a mile apart from one another; each was held at a separate rent, and a separate notice to quit was requisite in respect of each property.

It was objected at the revision court that the respondent was not entitled to his county vote, on the ground that he occupied the land "together with" the house, within the meaning of section 25 of 2 Will. IV. c. 45, and that such occupation conferred upon him the right of voting for the borough.

The revising barrister overruled the objection and retained the name.

The court held that the words "occupied together with" in section 25 of 2 Will. IV. c. 45, have a more



extensive meaning than contemporaneous occupation under the same landlord, and point to a user of the qualifying premises together for a common purpose, and that, there being no evidence in the case before the court of any such user of the two properties, the revising barrister had rightly decided that the land in question was not occupied by the respondent "together with" the house, so as to exclude him from the county franchise: *Sanders v. Searson*, Colt. Reg. Cas. 135; 50 L. J. C. P. D. 117; 43 L. T., N. S. 438.

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## BOROUGH FRANCHISE—OCCUPATION.

*Cowhouse substantially built, and conveniently placed for occupation of voter's land, a building within section 27 of Reform Act, 1832.*

BOROUGH OF WENLOCK. The qualification of a voter was stated in the list to be "building and land."

The building was a cowhouse or stable, substantially built of stone, with a tiled roof, and having a door with lock and key.

It was suitable for the purpose for which it was erected and used, and conveniently placed for the occupation of the voter's land.

Held, that the building was within the meaning of the words "other building" in 2 Will. IV. c. 45, s. 27: (*a*) *Whitmore v. Bedford*, 5 M. & G. 9; 7 Scott, N. R. 489; 1 Lutw. 10; 13 L. J. C. P. 55; 7 Jur. 1064.

*Servant occupying house rent free, in part remuneration for his services, without being required to live there for the purpose of performing his duties, or for their more ready performance, held to occupy as tenant.*

BOROUGH OF CHATHAM. B. was objected to at the revision of 1843, on the ground that he had not occupied as owner or tenant.

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(*a*) *Peele v. Downes* and *Peele v. Williams* (5 M. & G. 13) were decided on the same day as the above case, without argument, the facts being admittedly undistinguishable from those in the principal case.

He was the master ropemaker in Chatham Dockyard, and, as such, had occupied a house therein (value £40 per annum) from July, 1835, to September, 1842, when he removed to, and rented at £50 per annum, another house, a mile from the dockyard, with regard to which house no question was raised.

The house in the dockyard belonged to the Lords Commissioners of the Admiralty, who allowed B. to reside therein rent free, in part remuneration for his services.

He had the exclusive occupation of the house, no part of which was used for the public service, the office at which B. performed his public duties being away from it.

If he had not been allowed the house, he would have had an addition to his salary, and since his removal in 1842 he had, in fact, received one guinea per week under the name of lodging money.

The revising barrister disallowed the objection, deciding that B. occupied as tenant.

The court affirmed the decision, there being "nothing in the facts stated to show that the claimant was *required* to occupy the house for the performance of his services, or did occupy it *in order* to their performance, or that it was *conducive* to that purpose more than any house which he might have paid for in any other way than by his services": *Hughes v. Chatham* (Burton's case), 7 Scott, N. R. 581; 5 M. & G. 54; 1 Lutw. 51; 13 L. J. C. P. 44; 7 Jur. 1136; B. & Arn. 61 (a).

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(a) The three following cases, substantially resembling Burton's case, were decided in accordance with the judgment therein:—Parker's case, Brook's case, Smith's case, 7 Scott, N. R. 581, 601, 602, 603, 608; 5 M. & G. 54, 73, 74, 75, 80, 81; 1 Lutw. 51, 52, 53, 54, 68, 72; 7 Jur. 1136, 1138; 13 L. J. C. P. 44, 46, 47; B. & Arn. 61, 90, 91, 96, 97.

*Distinct portions of a cotton factory, each being let to, and exclusively occupied by, a different tenant, held to be "buildings" within section 27 of Reform Act, 1832, and to be not the less exclusively occupied by the several tenants, by reason of the landlord supplying the steam power and shafting for working their spinning machines.*

BOROUGH OF STOCKPORT. A factory was let by its owner to several persons for the purpose of cotton spinning. To each of such persons a distinct or separate portion of the factory, consisting of one room, was let at a distinct rent, varying from £10 to £30 per annum, according to the size of the room.

Each tenant of a room had his own spinning machine in it, worked by a power supplied by a steam-engine belonging to, and worked by, and at the expense of, the landlord, who also found the main gearing or shafting which communicated such power to the machines, it being part of the contract with each tenant that the landlord should so supply such power.

Each tenant had the exclusive use of his room, and the key of the door thereof. In some instances the rooms were approached by a common staircase leading from the entrance to the factory, and upon which staircase the doors to the different rooms opened. In other instances the approach to the rooms was by separate staircases from the ground outside the building; and in others by doors on the ground opening into the factory yard.

Held, that each of the rooms was such a "building," and so exclusively occupied, as to confer a vote on its tenant under 2 Will. IV. c. 45, s. 27: *Wright v. Stockport*, 7 Scott, N. R. 561; 5 M. & G. 33; 1 Lutw. 32; 13 L. J. C. P. 50; 7 Jur. 1112; B. & Arn. 39 (a).

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(a) The court, referring to the above case, in their judgment in *Cook v. Humber* (11 C. B., N. S. 40), explain that the rooms were held to qualify, "because each separate room was, by reason of

*Surgeon to Greenwich Hospital, occupying as such a house therein, and required to do so with a view to the more effective discharge of his official duties, held not entitled to a borough vote in respect of such occupation.*

BOROUGH OF GREENWICH. D. was on the list of voters in respect of a "house."

He was the surgeon to Greenwich Hospital, and occupied as such (and had done so ever since his appointment, in or about 1825) a house (value exceeding £10 per annum) at the infirmary of the hospital, such house being appropriated to the surgeon for the time being.

D. was appointed by the Lords Commissioners of the Admiralty, in whom the general control over the hospital, its commissioners, and officers was vested by statute (10 Geo. IV. c. 25, s. 3), and by whom D. was liable to be removed for misbehaviour in his office.

The officers of the hospital were bound by the Admiralty regulations to inhabit the apartments assigned to them, and no exchanges, or other appropriation thereof, or alterations therein, could be made without permission.

The revising barrister having expunged D.'s name on the ground that he did not occupy either as owner or tenant,

The court held, in affirmance of that decision,—

1. That D. did not occupy the house as owner, because the facts showed that the Lords Commissioners of the Admiralty were the owners thereof in the proper legal sense of the word.

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actual severance, with a separate outer door, an entire building in one sense, though part of the entire building (the factory) in another sense." See, now, section 5 of the Parliamentary and Municipal Registration Act, 1878.



2. That he did not occupy as tenant (*a*), because (as the revising barrister appeared to have found on the evidence) he was *required* to occupy the house with a view to the more efficient performance of the duties of his office: *Dobson v. Jones*, 8 Scott, N. R. 80; 5 M. & G. 112; 1 Lutw. 105; 13 L. J. C. P. 126; 8 Jur. 451; B. & Arn. 243.

*A building, the lower part of which was used as a cow-house, and the upper part as a dwelling for man, held to be a "house" within section 27 (b) of Reform Act, 1832.*

BOROUGH OF BURY ST. EDMUNDS. The respondent claimed a vote for the borough, his qualification being described as "house and land."

Some years prior to the revision the respondent hired a piece of land within the borough, and erected a building thereon.

The building was substantially constructed of brick and stone, with a tiled roof.

The lower part consisted of a cowhouse and stable. Over the stable, and connected therewith by a staircase, was a chamber with a fireplace and window, furnished with a bed and chairs, and occupied as a dwelling by a man who was put there by the respondent's agent to look after cattle agisted on the land.

The only entrance to the building was by folding doors (of which the respondent had a key), opening into the cowhouse.

Held, that the building was a "house" within section 27 (b) of 2 Will. IV. c. 45, and that the occupation was sufficient to give the respondent a vote: *Nunn v. Denton*, 8 Scott, N. R. 794; 7 M. & G. 66;

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(a) See now 48 Vict. c. 3, s. 3.

(b) Repealed by s. 12 of 48 Vict. c. 3, and second schedule thereto, Part II., except as to rights of persons on the register at the date of the passing of that Act (6th December, 1884), in respect of the then existing borough (10*l.*) occupation franchise, and except as to conditions made applicable by the said Act to any franchise enacted thereby.

1 Lutw. 178; 14 L. J. C. P. 43; 8 Jur. 1102; B. & Arn. 324.

*Exclusive occupation of apartments in a house, landlord residing on premises, and retaining the key of street door, held insufficient to qualify.*

CITY OF WESTMINSTER. The respondent claimed in respect of his occupation of "part of house."

He stated (a) that he rented the second and third floors in a house, the shop and first floor of which were occupied by the landlord, who lived with his family on the premises.

The respondent had the exclusive control over the rooms occupied by him, and kept the keys thereof.

He had also a latch-key to the street door, but this door was sometimes fastened by a lock, of which he had never seen the key.

When he found the door fastened, he entered the house through the shop.

The revising barrister disallowed the claim, and referred to the court the question, whether the respondent had such an exclusive occupation of the second and third floors as to qualify for the franchise.

Held, affirming the decision, that the respondent was a mere lodger, and did not occupy as owner or tenant within section 27 (b) of 2 Will. IV. c. 45, and therefore was not entitled to the franchise (c): *Pitts v. Smedley*, 7 M. & G. 85; 8 Scott, N. R. 907; 1 Lutw. 196; 14 L. J. C. P. 73; 9 Jur. 69; B. & Arn. 344.

(a) The case, on remission to the barrister, was amended by the substitution of *facts for evidence*. See *Pitts v. Smedley*, *post*, "Practice," and note to that case.

(b) Repealed, save as appears in note (b) *ante*, p. 103.

(c) The court in reviewing this case, with *Wansey v. Perkins*, p. 106, *Score v. Huggett*, p. 105, and *Toms v. Lockett*, p. 111, in the considered judgment of *Cook v. Humber*, 11 C. B., N. S. 40, said that if the revising barrister had referred to the court the true question arising on the facts, it would have turned entirely on the *sufficiency of the tenement*, not on the nature of the occupation.

The court went on to say that the authorities were uniform to show that, "by the act of *severance*, part of a house becomes changed into a house, and without such severance the change would not be effected." See now section 5 of the Parliamentary and Municipal Registration Act, 1878.

*Exclusive occupation of apartments in a house, with possession of key of street door, landlord not residing on premises, held sufficient to qualify.*

CITY OF WESTMINSTER. B. claimed to be inserted in the list of voters in respect of his occupation of "apartments."

He was the tenant and occupier of two rooms (communicating with each other) on the second floor of a house which, with the exception of the back kitchen, was wholly let out in apartments, the back kitchen being used in common by all the tenants.

Each tenant had a key of the apartments occupied by him, and the exclusive right of access thereto. Each tenant had also a key of the street door.

The landlord did not reside in, or occupy any part of, the premises.

The revising barrister decided in favour of the claim, and referred to the court the question, whether B.'s occupation of the two rooms was sufficient to qualify (a) under section 27 (b) of the Reform Act, 1832.

Held, that, as B. had the key of the outer door, his occupation was sufficient: *Score v. Huggett*, 8 Scott, N. R. 919; 7 M. & G. 95; 1 Lutw. 198; 14 L. J. C. P. 74; 9 Jur. 70; B. & Arn. 355.

*A building calculated for a dwelling-house, though not used as such, is a "house" within 2 Will. IV. c. 45, s. 27 (b).*

CITY OF BRISTOL. F. was objected to in respect of a qualification described in the list as "house."

He rented a building, consisting of apartments, and which had the usual conveniences of, and was in every way calculated for, a dwelling-house, and was

(a) See the judgment in *Cook v. Humber*, 11 C. B., N. S. 40, and note (c) to *Pitts v. Smedley*, *supra*.

(b) Repealed, save as appears in note (b) *ante*, p. 103.

in fact once used as such ; but it had ceased to be so used, and no one resided on the premises. F. occupied the greater portion of the building himself, partly for warehousing goods, and partly for a sale room.

Some of the rooms not so occupied he let off as workshops.

Held, that F.'s qualification was properly described as "house" : *Daniel v. Coulsting*, 8 Scott, N. R. 949 ; 7 M. & G. 122 ; 1 Lutw. 230 ; 14 L. J. C. P. 70 ; 9 Jur. 258 ; B. & Arn. 380.

*Exclusive occupation of apartments in a house, landlord residing on premises and having (as well as tenant) a key of street door, held insufficient to qualify.*

CITY OF LONDON. H. claimed in respect of his occupation of "three rooms."

These rooms formed the second floor of a house, and were in the exclusive occupation of H., as a dwelling-place and a printing office.

He held them as tenant to one K., who occupied the shop and first floor of the house, and resided therein.

The landlord and tenant had each a key of the street door.

The revising barrister having decided against the claim, and granted a case on the question of the sufficiency of the qualification (a),

The court held, affirming the decision, that H. was a mere lodger, and did not occupy as tenant, within section 27 (b) of 2 Will. IV. c. 45 : *Wansey v. Perkins* (Hill's case), 8 Scott, N. R. 978 ; 7 M. & G. 151 ; 1 Lutw. 252 ; 14 L. J. C. P. 75 ; 9 Jur. 116 ; B. & Arn. 409.

(a) See the judgment in *Cook v. Humber*, 11 C. B., N. S. 40 ; and note (c) to *Pitts v. Smedley*, on p. 104.

(b) Repealed, save as appears in note (b) *ante*, p. 103.

*Separate buildings cannot be joined together, in order to make up requisite value for a vote under section 27 (a) of Reform Act, 1832.*

BOROUGH OF BLACKBURN. The respondent was on the list of voters in respect of “joiner’s shop, warehouse, and land, in Thunder and Back Lane.”

These premises were in the joint occupation of the respondent and another, who occupied them as owners.

The joiner’s shop (in Back Lane) was alone not worth £20 per annum.

The warehouse and land (in Thunder) were not worth, independently of the joiner’s shop, £20 per annum.

The aggregate value of the entire premises (in Back Lane and Thunder) exceeded £20 per annum.

The premises in Back Lane were distant 300 yards from those in Thunder, many buildings owned and occupied by other persons intervening.

Held, that the separate premises could not be joined, so as to make up the qualifying value, and consequently the respondent was not entitled to be registered: *Dewhurst v. Fielden*, 7 M. & G. 182; 8 Scott, N. R. 1013; 1 Lutw. 274; 14 L. J. C. P. 126; 9 Jur. 376; B. & Arn. 439.

*Revising barrister having decided that certain co-lessees, members of an association, occupied demised premises as tenants, and that such premises, although paid for and used by other members of the association in common with the co-lessees, were not occupied by the former as joint tenants with the latter, the court affirmed the decision, there being nothing, on the facts stated, to show that it was wrong in point of law.*

CITY OF LONDON. The respondent and five others were on the list of voters as occupiers of “house, 67, Fleet Street.”

They were the joint lessees of that house at a



yearly rental of £200, for which they were alone liable.

There was no mention in the lease of the purpose for which the premises were taken, but they were in fact used for the purposes of the Anti-Corn-Law League, for the carrying out the objects of which there was a common fund, to which the respondent, his co-lessees, and above twenty other persons, members of the association, subscribed.

The rent and wages of servants in charge of the premises were paid out of this fund.

Various members of the association transacted the business thereof upon the premises; and the respondent and his co-lessees, when in London, frequented the premises, partly transacting the business of the association, and partly their own.

The revising barrister having decided, upon these facts, that the respondent and his co-lessees occupied the premises as tenants, and that the same were not jointly occupied by them and the other members of the association as tenants,

The court affirmed the decision, there being nothing, on the facts stated, to show that it was wrong in point of law: *Luckett v. Bright*, 2 C. B. 193; 1 Lutw. 456; 15 L. J. C. P. 85; B. & Arn. 737.

*The yearly value of premises required to give a vote under section 27 (a) of Reform Act, 1832, is a question of fact for revising barrister, and the court will not review his decision thereon unless it be manifestly wrong.*

CITY OF LONDON. On a statement of facts raising the question whether certain premises were of the clear yearly value of £10, within the meaning of 2 Will. IV. c. 45, s. 27(a), the court refused to interfere, on the ground that the question was one of fact for the revising barrister alone to decide, there being nothing in the case to show that he had come to a

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(a) Repealed, save as appears in note (b) *ante*, p. 103.

wrong conclusion (a) : *Coogan v. Luckett*, 2 C. B. 182 ; 15 L. J. C. P. 159 ; 1 Lutw. 447 ; 10 Jur. 141 ; B. & Arn. 716.

*Fair annual rent, the criterion of "clear yearly value," within section 27 (b) of Reform Act, 1832, without any deduction on account of landlord's repairs, or insurance.*

BOROUGH OF CHATHAM. H. was on the list of voters in respect of a "house," which he occupied, as tenant, at the yearly rent of £10, exclusive of rates and taxes. It was a fair rent for the premises. There was no special agreement between H. and his landlord as to repairs or insurance.

The vote was objected to on the ground that the value was insufficient, and it was contended in support of the objection that the proper measure of "clear yearly value," within section 27 (b) of the Reform Act, 1832, was not the rent for which a house would let to a tenant, but the amount of such rent after deducting the average annual expense of landlord's repairs and landlord's insurance.

The revising barrister held, that the fair annual rent was the proper criterion of value, without any such deduction, and accordingly retained H.'s name on the list.

The court affirmed the decision (c) : *Colvill v. Wood*, 2 C. B. 210 ; 1 Lutw. 483 ; 15 L. J. C. P. 160 ; B. & Arn. 721.

(a) "The fair principle to be adopted in ascertaining the clear yearly value is to inquire what the premises would let for to a tenant, and to deduct therefrom what a tenant would ordinarily have to pay." Per ERLE, J., 1 Lutw. 450.

(b) Repealed, save as appears in note (b) *ante*, p. 103.

(c) TINDAL, C. J., in delivering the judgment of the court in the above case, said, "Where a house is occupied by a tenant at the clear annual rent of £10, if such house is fairly worth that rent to anyone wanting to occupy it, if the house would generally fetch such rent, the occupation is that of a house of the clear yearly value of not less than £10, so far as the tenant is concerned."

See per ERLE, J., in *Coogan v. Luckett*, *supra*.

*A house and a shop not within same curtilage cannot be joined together to make up requisite value.*

BOROUGH OF BRECON. The appellant was the owner and occupier of a shop, and also of a house, bakehouse, and garden.

Neither the shop alone, or the house, &c., without the shop, was, or were, of sufficient value to give a borough vote, but the shop and the other premises together were of the requisite value.

The shop was separated from the house, &c., by a yard (8 feet wide), which was the appellant's property, and in his exclusive occupation.

There was no connexion between the shop and the house, &c., other than by the soil of the yard.

The shop had a front door opening to the street, and a back door opening to the yard.

The house and bakehouse had front doors opening to the yard, the front door of the house being opposite the back door of the shop.

The yard was nearly enclosed, but there was a communication between it and the street by means of an *open* passage.

This passage was the property of the appellant, and the only person who had a right to use it besides himself was a tenant of his, the occupier of a house in the yard.

Held, that the relative situation of the shop and the house, &c., was such, that the shop could not be joined with the other premises, so as to constitute one entire qualification under section 27 (*a*) of 2 Will. IV. c. 45: *Powell v. Price*, 4 C. B. 105; 1 Lutw. 586; 16 L. J. C. P. 139; 11 Jur. 475.

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(*a*) Repealed, save as appears in note (*b*) *ante*, p. 103.

*Exclusive occupation of apartments in a house, landlord not residing on the premises, but having (as well as tenant) a key of street door, held sufficient to qualify.*

CITY OF LONDON. The appellant was on the list of voters in respect of "apartments" (a).

He occupied as a residence two rooms, forming the first floor of a house, at a weekly rent of 5s. 6d.

The landlord occupied a shop and parlour on the ground floor, but did not sleep there. The other rooms upstairs were let out in distinct apartments to different inmates.

There was but one outer door, and of this the landlord, the appellant, and the other inmates, each had a key; the door had no other fastening than the lock, and all the parties let themselves in and out at will.

The landlord's shop door was inside the passage, which the appellant had to enter and pass along, in order to get to the staircase leading to his rooms.

The revising barrister decided against the vote, and referred the question whether the appellant's occupation was sufficient to qualify (b) under section 27 (c) of the Reform Act, 1832.

The court held, reversing the decision, that the occupation was sufficient, notwithstanding that the appellant had no exclusive control over the outer door: *Toms v. Luckett*, 5 C. B. 23; 2 Lutw. 19; 17 L. J. C. P. 27; 11 Jur. 993; 10 L. T. 264.

(a) Some of the judges expressed an opinion that the "apartments" occupied by the appellant fell within the words "other building," in section 27 of the statute, but WILLIAMS, J., doubted the correctness of that view, and the point was not, it seems, before the court: see *Cook v. Humber*, 11 C. B., N. S. 43.

(b) See the judgment in *Cook v. Humber*, 11 C. B., N. S. 40, and note (c) to *Pitts v. Smedley*, on p. 104.

(c) Repealed, save as appears in note (b) *ante*, p. 103.

*A party's interest, as tenant, in a counting-house forming part of a house, not limited by landlord's clerk residing on the premises for their protection.*

CITY OF LONDON. The appellant was on the list of voters in respect of a counting-house, which he occupied at a yearly rent of £20. The counting-house formed part of a house, in which there were other counting-houses severally occupied by the landlord and other persons.

At the only outer entrance to the house there stood a gate and a door, which were open all day, but locked at night. The keys of the outer gate and door were kept exclusively by a clerk, whom the landlord employed to reside on the premises for their protection, and for the accommodation of those who had counting-houses therein. It was the clerk's duty to unlock the outer gate and door, and admit the occupiers of the counting-houses whenever they, or any of them, required him to do so.

Held, reversing the revising barrister's decision, that there was nothing in the case to limit the appellant's interest, as tenant, in the premises occupied by him, and consequently that he was entitled to the franchise: *Downing v. Lockett*, 5 C. B. 40; 2 Lutw. 33; 17 L. J. C. P. 31; 11 Jur. 993; 10 L. T. 264.

*Revising barrister having decided that a certain shed, of which, in stating the case, he gave an incomplete description, was a "building," within section 27 (a) of Reform Act, 1832, the court affirmed his decision, there being nothing in the case inconsistent with the possibility of the shed being such a "building."*

BOROUGH OF BEWDLEY. A voter occupied a wharf and shed, described in the list as "wharf and building."

The shed stood against a wooden paling, the boundary of the wharf, but was not fastened thereto.

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(a) Repealed, save as appears in note (b) *ante*, p. 103.



It had a tarpauling for its roof, supported by six posts put into the ground, and one of its sides was boarded up and nailed to the posts.

The shed was used for purposes connected with the occupation of the wharf.

The voter kept in it his barrows, shovels, and coal baskets; and a man, who rented of him part of the wharf for making hoops, was allowed to put hoops and poles into the shed, paying wharfage for the use of it.

The revising barrister having decided that the shed was a "building," within section 27 (a) of the Reform Act, 1832,

The court held, that the decision must be affirmed, as there was no statement in the case inconsistent with the possibility of the shed being a "building" within that section: *Watson v. Cotton*, 5 C. B. 51; 2 Lutw. 53; 17 L. J. C. P. 68; 11 Jur. 1106 (b).

*Coach-house and stable, under one roof, having no internal communication, except by means of two grated windows, held a building, within section 27 (a) of Reform Act, 1832.*

BOROUGH OF NEWPORT. The appellant was on the list of voters in respect of his occupation of a coach-house and stable.

Neither the coach-house without the stable, or the stable without the coach-house, was of the clear annual value of £10, but both together were of that value.

The two places adjoined each other, and were under the same roof, one large room extending over both. There were two grated windows in the wall dividing the coach-house from the stable, looking from one into the other; but there was no internal

(a) Repealed, save as appears in note (b) *ante*, p. 103.

(b) The court, adverting to the above case in their judgment in *Powell v. Boraston*, 18 C. B., N. S. 181, reject as unsound the inferences drawn from it by the learned reporter in 2 Lutw. 58, *note*.

communication by which a person could pass from one into the other.

The door of the coach-house was under a covered gateway leading from the street into a yard, in which, round the corner of the gateway, was the door of the stable. There were gates at the entrance of the gateway from the street, which gates, when closed, shut in both the coach-house and the stable.

These gates, and the gateway and yard, were used in common by the appellant and the occupiers of other premises situate under the gateway and within the yard. In order to get from the coach-house to the stable, it was necessary to pass along the common gateway and yard.

Held, that the coach-house and stable together constituted a building, within section 27 (a) of 2 Will. IV. c. 45, although there was no internal communication between them for passing from one to the other, and, consequently, that the appellant was entitled to the franchise: *Jolliffe v. Rice*, 6 C. B. 1; 2 Lutw. 90; 18 L. J. C. P. 25; 12 L. T. 244; 13 Jur. 39.

*The court were equally divided as to whether the occupation of a house and land in Far Forest, Bewdley, gave a vote for the borough of Bewdley.*

BOROUGH OF BEWDLEY. G. claimed to be registered in respect of a house and land in Far Forest in the parish of Ribbesford.

Before the passing of the Boundary Act, 1832 (2 & 3 Will. IV. c. 64), Far Forest was part of the borough. By section 35, and sched. O, of that Act, the parish of Ribbesford was included within the borough, but Far Forest was so detached from the main body of the parish as to break the continuity of the borough boundary, and consequently ceased, by virtue of section 37 (b), to be included within it,

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(a) Repealed, save as appears in note (b) *ante*, p. 103.

(b) The thirty-seventh section of 2 Will. IV. c. 64, enacts, that, notwithstanding the generality of any description contained in

*unless, before the passing of the Act, it had formed part of the borough “for the purpose of the election of a member to serve in parliament.”*

By a charter of James the First the right of electing members to serve in parliament for the borough, was vested in the bailiff and burgesses, who were not required to reside within the borough; the burgesses were themselves elected by the bailiff and capital burgesses, the latter being required to reside therein.

The revising barrister decided that Far Forest had not, before the passing of the Boundary Act, 1832, formed part of the borough “for the purpose of the election of a member” for the borough, and therefore disallowed the claim.

Held, per WILDE, C. J., and MAULE, J., that, inasmuch as before the passing of 2 & 3 Will. IV. c. 64, a residence in Far Forest would have formed part of the qualification of a capital burgess to elect the common burgesses who were to elect the member, Far Forest was part of the borough “for the purpose of the election of a member to serve in parliament,” within section 37 of the Act, and consequently, that G. was entitled to be on the register.

Per CRESSWELL and WILLIAMS, JJ., that the connection of Far Forest with parliamentary elections was too remote to satisfy the saving clause of section 37; that that clause was intended merely to preserve personal rights reserved by section 33 of 2 Will. IV. c. 45, and consequently, that G. was not entitled: *Palmer v. Allen*, 6 C. B. 51; 2 Lutw. 126; 18 L. J. C. P. 265; 13 Jur. 708; 13 L. T. 323 (a).

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sched. O (of that Act), “no city, borough, or place, the contents whereof are specified in such schedule, shall include any part of any parish, &c., which is detached from the main body of such parish, &c., if by reason of including such detached part, the boundary hereby established of such city, borough, or place, would not be continuous, unless such detached part shall, before the passing of this Act, have formed part of such city, borough, or place, for the purpose of the election of members to serve in parliament.”

(a) It is remarkable that the definition of the parliamentary

*One who occupies a house as tenant under a lease from the owner, will not cease to occupy as such by reason of his entering into a parol agreement with owner, whereby the latter becomes a lodger in respect of a portion of the premises demised by him.*

BOROUGH OF NEWPORT. A. was on the list of voters (revised in 1849) in respect of his occupation of a "house."

He had occupied the house in question as yearly tenant for about three years to 2nd March, 1849, when the owner, by a duly-executed lease, demised the premises to him for a period of seven years at an annual rent of £22.

In the following month the owner entered into a parol agreement with A. to lodge in the house, and accordingly became the occupier of a shop and two rooms therein at a yearly rent of £12, A. continuing to occupy, and residing in, the residue of the house, consisting of three rooms and a kitchen.

The only entrance to the house was through the shop occupied by the owner, each party keeping a key of the street door, and having equal access to their respective apartments.

There was only one staircase in the house, and that was used by both parties in common.

The revising barrister held, that the admission of the owner, under the circumstances stated, to the occupation of the premises did not set aside the indenture of lease, and that, consequently, the owner resided on the premises as a lodger, and that

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area of the borough of Bewdley, enacted by the Boundary Act of 1832, was re-enacted by the Boundary Act of 1868, without any alteration, except that, under the last-mentioned statute, such definition included the hamlet of Upper Mitton, which was within the parish of the foreign of Kidderminster: consequently, the question whether Far Forest (in the parish of Ribbesford) was, or was not, within the parliamentary borough of Bewdley remained open to argument until the Redistribution of Seats Act, 1885, which disfranchised Bewdley as a parliamentary borough.

A. was the occupier as tenant, and therefore entitled to vote.

The court affirmed the decision: *White v. Pring*. [This case is not reported, except in relation to a point of practice on appeal; see *post*, "Practice."]

*A row of continuous buildings may constitute a "building," within section 27 (a) of Reform Act, 1832, although there be neither internal communication between them, or continuity of roof.*

BOROUGH OF HARWICH. The respondent was objected to on the list of occupiers, in the third column whereof his qualification was described as "workshop, stable, and garden."

The ground of objection was, that the stable and workshop were not so situated with respect to each other, that they could be united, so as to form a qualification, or part of a qualification.

The premises consisted of a two-stalled stable, with hay-loft over it, built of brick; annexed to which, but of a lower elevation, was another brick building, to which again was annexed an irregular wooden building, divided into three compartments, the whole being in the respondent's exclusive occupation under one landlord, and used by the respondent for the purpose of his business as a wheelwright. Each of the two brick buildings, and each compartment of the wooden building, opened into the same yard (also in the respondent's exclusive occupation); but there was no internal communication between any of these buildings.

Held, affirming the revising barrister's decision, that the premises constituted a "building," within section 27 (a) of 2 Will. IV. c. 45: *Pownall v. Dawson*, 11 C. B. 9; 2 Lutw. 177; 21 L. J. C. P. 14; 16 Jur. 549.

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(a) Repealed, save as appears in note (b) *ante*, p. 103.



*The words "occupied therewith" in section 27 (a) of Reform Act, 1832, do not refer to local contiguity. They mean that the house and land must be occupied at same time.*

BOROUGH OF TEWKESBURY. B. occupied as tenant a house and garden, which were both taken by him of the same landlord, at the same time, and at one entire rent. Between the house and the garden there was some waste land and a row of buildings, and to get to the garden, B. had to go out of his front door and along the street for some yards.

The clear annual value of the house alone was less than £10; that of the house and garden together, more than £20.

B.'s vote for the borough having been objected to on the ground that the garden was separate from the house, and therefore, not within the meaning of the words "occupied therewith" in section 27 (a) of 2 Will. IV. c. 45, the revising barrister overruled the objection, and retained the name.

The court held that he was right: *Collins v. Thomas*, 12 C. B. 639; 2 Lutw. 219; 22 L. J. C. P. 38; 20 L. T. 97; 17 Jur. 25.

*Compulsory residence in a particular house for the discharge of official duties, inconsistent with occupation as tenant (b).*

BOROUGH OF BURY ST. EDMUNDS. C. claimed to be registered in 1856 in respect of his occupation of a house, which, together with the Guildhall, formed part of certain charity trust estates belonging to certain trustees or feoffees. C. was, and had been by annual appointment since 1846, the keeper of the Guildhall.

The house in question, which had been built many years, and was intended for the residence of the hall-keeper, communicated with the back of the Guildhall by means of a yard, so that the hall-keeper

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(a) Repealed, save as appears in note (b) *ante*, p. 103.

(b) See now 48 Vict. c. 3, s. 3.

could from the inside secure the front door of the Guildhall, opening to the street.

C. occupied the house in question in part remuneration for his services as hall-keeper. He had the exclusive control over it, and paid the rates and taxes.

In the minute book of the resolutions come to by the trustees at their annual meetings, there was generally the following entry: "Mr. J. W. Clarke was elected hall-keeper for the year ensuing." But in 1854 and 1855 the minute was entered thus: "Mr. J. W. Clarke is elected hall-keeper for the ensuing year, and that the said J. W. Clarke be continued as tenant of the house in which he lives, he paying the rates, taxes, and outgoings." In January, 1856, the entry was, "Mr. J. W. Clarke is elected hall-keeper for the ensuing year."

The revising barrister being of opinion that C.'s occupation of the house was necessary for the due discharge of his duties as hall-keeper, and that he was required to occupy it, disallowed the claim.

The court, upon that finding, held, that C.'s occupation was that of a servant, and not a tenant, and, therefore, that the claim was rightly disallowed: *Clarke v. Bury St. Edmunds*, 1 C. B., N. S. 23; K. & G. 90; 26 L. J. C. P. 12; 28 L. T. 102; 5 W. R. 21; 3 Jur., N. S. 645.

*The brethren of Earl Leicester's Hospital held not to occupy their dwellings as owners or tenants, but merely as members of a corporation.*

BOROUGH OF WARWICK. B. was on the list of voters for the parish of St. Mary in respect of his occupation of "part of Earl Leicester's Hospital," which he occupied as one of the brethren of that institution.

The hospital, a charitable foundation, was incorporated by Act of Parliament, and empowered to hold land; and it consisted of a master and twelve

brethren, who were governed by certain rules and statutory provisions.

The brethren were appointed by the heir of the founder, and held their appointments for life, subject to deprivation for any of the causes specified in the rules.

The income of the corporation was derived from land, and two of the brethren annually received the rents, out of which they made all payments for repairs and taxes, coals and candles, and for the general purposes of the hospital.

Each of the brethren occupied exclusively two rooms, a sitting-room and a bed-room, a cellar, and a piece of garden, which together were of the clear annual value of £10, and in respect of which the occupier's name appeared in the rate-book.

These premises were within the walls of the hospital, beyond which the brethren were not permitted to go after 9 p.m., when the outer gates of the hospital were locked by the porter for the night.

Held, that B. occupied neither as owner or tenant, but merely as a member of the corporation, and was, therefore, not entitled to a borough vote under 2 Will. IV. c. 45, s. 27: *Heath v. Haynes*, 3 C. B., N. S. 389; K. & G. 99; 27 L. J. C. P. 50; 4 Jur., N. S. 664; 6 W. R. 52; 30 L. T. 134.

*Where sole lessee of premises took into partnership three others, who, jointly with such lessee, occupied the premises for the partnership concern, the three persons so admitted were held to occupy as tenants.*

BOROUGH OF HAVERFORDWEST. Three persons claimed in 1858 to be inserted in the list of £10 occupiers.

The nature of their qualifications was described as "one undivided fourth part of house and mills."

The claimants' father was, and had been since 1836, lessee of a house and mill for ninety-nine years, terminable on lives, at a yearly rent of £350.

In 1842 he took his three sons (the claimants) into partnership in the business of paper making.

The four partners built another mill at their joint expense, and carried on one business at the two mills.

The accounts were balanced each year, and the profits, after deducting expenses, were divided equally amongst the four.

They all lived together in the house, and were all rated in respect of it.

The rent, rates, and household expenses, were paid out of the partnership funds, but the rent was actually paid by the father, who was alone recognized as the tenant by the landlord, though the latter knew of the existence of the partnership.

Held, affirming the decision of the revising barrister, that the claimants occupied as tenants (per WILLIAMS, J., at least as tenants at will to their father) within section 27 of 2 Will. IV. c. 45 : *Rogers v. Harvey*, 5 C. B., N. S. 3 ; K. & G. 169 ; 28 L. J. C. P. 17 ; 32 L. T. 106 ; 7 W. R. 17 ; 5 Jur., N. S. 199 (a).

*The Military Knights of Windsor held not to occupy their dwellings either as owners or tenants, but as mere objects of charity.*

BOROUGH OF NEW WINDSOR. The appellant was on the list of voters in respect of a "house," which he had occupied since 1840 as one of the military knights of Windsor.

These "knights" are an ancient institution of royal foundation, designed for the support of thirteen gentlemen "brought to necessity," who have been employed in the military service of the realm. They

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(a) See, as to joint occupiers as tenants at will, *Meyler v. Metcalfe*, 5 Ir. C. L. R. 54 ; and *Reg. v. Mayor of Belfast*, 8 Ir. R. C. L. Q. B. 423.

are appointed by the crown, and installed by the dean and canons of Windsor, in whom is vested the legal estate in the houses occupied by the "knights."

A newly-elected "knight" is described in his appointment as "a fit object of our royal charity," and holds his place as military knight "during his good and statutable deportment therein."

The "knights" are governed by the statutes of the foundation, and the orders of chapter, and are subject to the following regulations and restrictions:

They cannot let the houses assigned to them without the sanction of the dean and canons; nor can they receive guests into their rooms at will.

They are forbidden to sleep out at night without leave.

They are required to attend daily worship and certain mortuary services, to dine in a common hall, and to wear a livery, which is supplied to them out of the chapter revenues.

Any "knight" acquiring £20 a year becomes thereby disqualified for retaining his place as a member of the institution.

There are forfeitures and fines for disobeying the rules.

The "knights" are severally paid a fixed sum daily, and receive a quarterly dole.

If a "knight" be guilty of a notable crime, or of disobedience after two warnings, he is expelled.

The houses allotted to the "knights" are repaired by the crown.

Held, that the appellant occupied his house as a mere object of charity, and not as owner or tenant, and therefore was not entitled to the borough franchise under 2 Will. IV. c. 45, s. 27 (a) : *Heartley v. Banks*, 5 C. B., N. S. 40; 28 L. J. C. P. 144; K. & G. 219; 5 Jur., N. S. 492; 7 W. R. 342; 33 L. T. 203.

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(a) Repealed, save as appears in note (b), *ante* p. 103.



*Occupying tenant of buildings and land hired of "the same landlord" does not lose the borough qualification acquired by him in respect of such premises, under the Reform Act, 1832, by reason of his landlord's sale of the buildings during qualifying year, provided tenant continues to hold them under original taking.*

BOROUGH OF ASHBURTON. The appellant (*Smerdon v. Tucker*) (a) had occupied as tenant from 31st July, 1858, to 31st July, (b) 1859, (the qualifying year), certain buildings and land within the borough, of the annual value of £40.

He was objected to on the ground that he did not hold the premises in question under the same landlord.

On the 31st July, 1858, A. was owner in fee and landlord of all the premises, but on 16th July, 1859, he sold the buildings to T.

By a deed of that date A. conveyed to T. all the buildings occupied by the appellant, to hold during the joint lives of the said A. and T.

The transaction was a *bonâ fide* sale for adequate value.

The consideration was really paid, but no notice of the conveyance was given to the appellant (c), who did not know of it, until it was disclosed in the revision court.

There was no building on the land retained by A., and the buildings which he sold to T. were not, without such land, of the annual value of £10.

Held, that as the appellant took both the land and the buildings from the same landlord, and continued to hold under that taking, he was entitled to be on

(a) The facts of *Smerdon v. Tucker* are given here, but the three cases were the same in all points material to the decision, and were consolidated.

(b) See now, as to the requisite period of occupation, section 7 of the Parliamentary and Municipal Registration Act, 1878.

(c) In *Bickley v. Tucker* the voter was apprised of the conveyance prior to 31st July, 1859, and received notice to leave at Christmas, 1859. This distinction was, however, immaterial.

the register, under 2 Will. IV. c. 45, s. 27 (a), notwithstanding the severance of the reversion: *Smerdon v. Tucker*, *French v. Tucker*, *Bickley v. Tucker*, 7 C. B., N. S. 37, 45; K. & G. 305, 318, 319; 29 L. J. C. P. 93, 96; 6 Jur., N. S. 557, 559; 8 W. R. 151; 1 L. T., N. S. 549.

*Revising barrister having held that certain facts did not show a sufficient occupation as owner or tenant, the court would not interfere, as the conclusion drawn by the barrister from the facts was not contrary to law.*

BOROUGH OF NEW WINDSOR. B. claimed to have his name inserted in the list of voters.

He was one of the lay clerks of Windsor, and as such had for several years occupied a house within the borough, of the annual value of £10.

He had been appointed lay clerk by the dean and canons of Windsor, in whom was the freehold of the house in question.

A certain number of houses were occupied by the lay clerks. There were more lay clerks than houses, and the juniors received £20 a year more salary till a house became vacant, when the salary was reduced by the £20. The lay clerk might then take the house, but was not obliged to reside therein, as he could perform all his duties without doing so; but he could not let the house without permission of the dean and canons.

The claimant stated his belief that he held his office for life, or so long as he performed his duties; that he had never seen the statutes of the dean and canons, though he had no doubt of the existence of such statutes; that he had no right of access to them, and had made no attempt to see them or procure evidence from them; that he knew of no book relating to his office but the cheque book, in which his name was entered, and which he saw once a month.

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(a) Repealed, save as appears in note (b) *ante*, p. 103.

The revising barrister having rejected the claim on the ground that the evidence was insufficient to show an occupation by B. as owner or tenant,

The court would not interfere, as the question was one of fact, and the conclusion drawn by the revising barrister from the facts stated was not contrary to law: *Bridgewater v. Durant*, 11 C. B., N. S. 7; K. & G. 377; 31 L. J. C. P. 46; 8 Jur., N. S. 590; 10 W. R. 171; 5 L. T., N. S. 491.

*Part of a house not structurally severed from the residue held not to be a "house" within section 27 (a) of Reform Act, 1832.*

BOROUGH OF BRIDGWATER. The appellant was on the list of voters in respect of "houses in succession."

Having occupied, as tenant, a house in the borough during the earlier part of the qualifying year, he moved therefrom to another house, one side of which he rented and resided in during the remainder of such year.

The side consisted of rooms on the ground floor, having doors into the hall, which was shut off from the street by an outer door, kept closed night and day; also of rooms on the upper floor, approached by a staircase used exclusively by the appellant, between which rooms and the rooms on the other side of the passage, occupied by the landlord (the owner of the whole house, who resided on the premises) there was no communication.

The appellant had a lock and key to each of his rooms, and both he and his landlord had keys of the street door, and they were rated jointly.

Held (*b*), that the part of the house occupied by the appellant as his residence was not a "house"

(a) Repealed, save as appears in note (*b*) *ante*, p. 103.

(b) The court, in a considered judgment, reviewed *Pitts v. Smedley*, 7 M. & G. 85; *ante*, p. 104; *Wansey v. Perkins* (Hill's case), 7 M. & G. 151; *ante*, p. 106; *Score v. Huggett*, 7 M. & G. 95; *ante*, p. 105; and *Toms v. Luckett*, 5 C. B. 23; *ante*, p. 111.

within section 27 (*a*) of 2 Will. IV. c. 45, as it was not structurally severed (*b*) from the residue, and, therefore, the appellant was not entitled to be registered as a borough voter in respect of it: *Cook v. Humber*, 11 C. B., N. S. 33; K. & G. 413; 31 L. J. C. P. 73; 8 Jur., N. S. 698; 10 W. R. 427; 5 L. T., N. S. 838.

*Offices, not structurally severed from residue of premises of which they formed part, held not to qualify under section 27 (a) of Reform Act, 1832.*

CITY OF LONDON. The appellant was on the list of voters in respect of "offices," of which he had the exclusive occupation as tenant, his residence being elsewhere (within seven miles of the city).

These offices comprised the whole of the first floor of a house. The appellant's landlord occupied the shop on the ground floor, and resided with his family on the upper floor.

There were two outer doors to the house, one opening from the street into the shop, and the other opening from the street into a passage communicating with a staircase leading to the first and upper floors.

The door opening from the street into the passage had only one lock, of which the appellant and his landlord each had a key. There was also an inner door, leading from the shop into the passage, and this was used exclusively by the landlord and his family.

Held, that the floor occupied by the appellant, not being structurally severed (*b*) from the rest of the house or building of which it formed part, was neither a "house" nor a "building" within section 27 (*a*) of 2 Will. IV. c. 45, and therefore the appellant was not entitled to vote: *Wilson v. Roberts*, 11 C. B., N. S. 50; K. & G. 430; 31 L. J. C. P. 78; 8 Jur., N. S. 719; 10 W. R. 429; 5 L. T., N. S. 838, 841.

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(*a*) Repealed, save as appears in note (*b*) *ante*, p. 103.

(*b*) See now section 5 of the Parliamentary and Municipal Registration Act, 1878.

*Upper floor of house, consisting of two rooms (the one a shop, the other for residence) opening the one into the other, and communicating with landing on common staircase by an outer door, over which occupier of such rooms had exclusive control, held to be a separate "house" within section 27 (a) of Reform Act, 1832.*

CITY OF LONDON. The appellant was objected to on the list of occupiers.

He had occupied for the statutory period, as tenant, two rooms constituting the whole of the upper floor of a house. These rooms (an inner and outer room) opened the one into the other, and communicated with the landing on the staircase by *one outer door*, over which the tenant *had exclusive control*.

One of the rooms was used by the appellant as a tailor's shop, and the other as a sitting and bedroom.

Neither room, taken singly, was of sufficient value to give a borough vote, but both together were.

The lower floors of the house were occupied by other tenants, and all the tenants had access to their several holdings from the street, through a doorway at the entrance of a passage leading to the common staircase. At this entrance there was a door, but it had no fastening of any kind, and could not be so closed as to secure the premises against intrusion from the street.

Held, that there was such a "structural severance" (*b*) within *Cook v. Humber* as to constitute the appellant's rooms a "house" within section 27 (*a*) of 2 Will. IV. c. 45, and, consequently, to give him the right to a borough vote: *Henrette v. Booth*, 15 C. B., N. S. 500; H. & P. 23; 33 L. J. C. P. 61; 9 Jur., N. S. 1293; 12 W. R. 173; 9 L. T., N. S. 392.

(*a*) Repealed, save as appears in note (*b*) *ante*, p. 103.

(*b*) See now section 5 of the Parliamentary and Municipal Registration Act, 1878.



*Confinement in gaol more than seven miles from borough for misdemeanour, during five months of period of residence required by section 27 (a) of Reform Act, 1832, a break of residence.*

**BOROUGH OF KIDDERMINSTER.** The respondent (a householder) was objected to at the revision of 1864 on the ground that he had not resided within the borough, or seven miles thereof, for six calendar months next previous to the last day of July (*b*), as required by section 27 of 2 Will. IV. c. 45.

On 27th February, 1864, the respondent was convicted of an assault, and committed by the magistrates to Worcester gaol for six months without the option of paying a fine.

Worcester gaol was more than seven miles from the parliamentary borough of Kidderminster.

At the date of, and during so much of the qualifying year as preceded, his conviction, the respondent resided, and carried on business, at a house in Kidderminster. After his conviction, but before leaving Kidderminster, the respondent (a widower, with no family) made arrangements by which the house was occupied, and his business (that of a butcher and beerseller) carried on, by his servant on his behalf during his absence.

Having served his term of imprisonment, the respondent returned on 25th August, to his house at Kidderminster, and had resided there ever since.

Held, that the respondent, having by his own voluntary criminal act debarred himself of the liberty of returning to his home during the six months of residence required by the statute, was not entitled to be registered: *Powell v. Guest*, 18 C. B., N. S. 72; H. & P. 149; 34 L. J. C. P. 69; 10 Jur., N. S. 1238; 13 W. R. 274; 11 L. T., N. S. 599.

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(*a*) Repealed, save as appears in note (*b*) *ante*, p. 103.

(*b*) See now, as to the requisite period of occupation, section 7 of the Parliamentary and Municipal Registration Act, 1878.

*Revising barrister having decided that a certain structure, of which he gave a description, was a "building" within section 27 (a) of Reform Act, 1832, and that voter occupied it as tenant, the court would not review his decision, there being nothing in the case inconsistent with the possibility of the structure being such a building, or of its being so occupied.*

**BOROUGH OF KIDDERMINSTER.** The respondent had, for more than twelve months next previous to 31st July, 1864 (the last day of the qualifying year) (*b*), rented and occupied land (yearly value £20) for the purposes of his business as a market gardener. There was no building on the land when the respondent took it, but previously to 31st July, 1863, he had built upon it at his own expense a wooden structure, having boarded sides, and a thatched roof, and supported by wooden posts let into the ground. This structure was entered by a door fastened with a padlock, and it was used by the respondent for storing potatoes and other things connected with his business.

The revising barrister having found that the structure was a "building" within section 27 (*a*) of 2 Will. IV. c. 45, and that the respondent occupied it as tenant,

The court held, according to the principle laid down in *Watson v. Cotton*, 5 C. B. 51, *ante*, pp. 112, 113, that there was not sufficient in the barrister's description or statements to warrant them in disturbing his decision on either point: *Powell v. Farmer*, 18 C. B., N. S. 169; H. & P. 172; 34 L. J. C. P. 71; 11 Jur., N. S. 162; 11 L. T., N. S. 736; 13 W. R. 467.

(*a*) Repealed, save as appears in note (*b*) *ante*, p. 103.

(*b*) See now, as to the requisite period of occupation, section 7 of the Parliamentary and Municipal Registration Act, 1878.

*The court rejected revising barrister's finding, that a certain structure was a "building" within section 27 (a) of Reform Act, 1832, his description of it showing that it was neither adapted to, nor intended for, residential or commercial purposes.*

*Tenant farmer held not to occupy as tenant a shed erected on his land during the term of his tenancy by a political agent, there being nothing to show that it was built under conditions that would make it parcel of the freehold.*

BOROUGH OF KIDDERMINSTER. The respondent had for several years rented and occupied a farm within the parish of Kidderminster Foreign. The greater portion of the farm, including the farm buildings, was beyond the borough limits, but some of the land (of the clear yearly value of £10) lay within the borough. There was no building on the portion of the farm within the borough when the respondent took the farm of his landlord; but some years before the revision a shed was placed upon the piece of land within the borough. This was done by the direction of a political agent, who had no sort of interest in the land, and who was not shown to have obtained the landlord's permission for the erection in question.

The shed was a wooden one, having boarded sides, and a boarded roof, and supported by four posts let three feet into the ground. It adjoined a public road, and most of the side boards facing the road had been broken to pieces. There was no floor to the shed. It was entered by a door, and was used by the respondent for keeping agricultural implements.

The revising barrister having decided that the shed was a "building" within section 27 of 2 Will. IV. c. 45, and that the respondent occupied it as tenant,

The court, reversing the decision, held,—

1. That, although the barrister had found that the shed was a "building" within the

statute, his description of it (which was *complete*) (*a*), excluded the possibility of its being such a building, it being obviously neither adapted to, nor intended for, residential or commercial purposes, and, consequently, failing to satisfy the requirements of the statute, according to the principles laid down in *Cook v. Humber*, 11 C. B., N. S. 41, 44, 45.

2. That, assuming the shed to be a "building" within the meaning of the section, the respondent did not occupy it as tenant, for the case did not show that it was built under conditions which would vest it in the landlord, subject to the interest of the tenant during the term: *Powell v. Boraston*, 18 C. B., N. S. 175; H. & P. 179; 34 L. J. C. P. 73; 11 Jur., N. S. 160; 13 W. R. 465; 11 L. T., N. S. 734.

*Qualification in respect of "building and land" held satisfied by proof that building was of a permanent nature, that it was useful for occupation of the land, and that it added to value thereof, though in a small degree.*

BOROUGH OF TOTNES. The voter occupied, at a rent exceeding £10 per annum, a piece of land upon which he grazed a cow.

Upon the land was a stone building, roofed, which he used for milking his cow in, and for keeping hay (*b*).

(*a*) The *completeness* of the description constituted an essential distinction between the above case and *Watson v. Cotton*, *ante*, pp. 112, 113, where (the revising barrister's description being *incomplete*) the court "declared it to be their duty to assume any possible facts not excluded by the case, for the purpose of affirming the barrister's finding." See the judgment of the court in the principal case.

(*b*, According to the report in the Law Reports (differing in this respect from the other reports of the case, the building was

The building had three sides, was open in front, and had a loft over, which was used as a fowl roost.

The voter was a dairyman.

The building was worth about 10s. a-year to the tenant: [For the decision (in favour of the vote) see *Hodges v. Harris*, *post*, 134, 135;] *Gilham v. Harris*, H. & P. 305, 308; H. & R. 328, 334; L. R. 1 C. P. 155, 158; 35 L. J. C. P. 101, 103; 14 W. R. 479, 480; 12 Jur., N. S. 627, 628; 13 L. T., N. S. 763.

*Qualification in respect of "building and land" held satisfied by proof that building was of a permanent nature, that it was useful for occupation of the land, and that it added to value thereof, though in a small degree.*

BOROUGH OF TOTNES. The voter occupied, at a rent exceeding £10 per annum, a field in which was a stone building, roofed.

The building was a lincay, open to the field. There was a crib in it. One side of the lincay formed the back of a large tank, which contained from 60 to 80 hogsheads of water. The roof of the tank was lower than that of the lincay, and the water flowed from the roof of the lincay into the tank. There was an internal (*a*) communication between the lincay and the tank. The water was used to water the cattle which fed upon the land. The lincay was worth to the tenant about 5s. a year. [For the decision (in favour of the vote), see *Hodges v. Harris*, *post*, 134, 135]: *Mason v. Harris*, L. R. 1 C. P. 155, 158; H. & P. 305, 309; H. & R. 328, 334; 35 L. J. C. P. 101, 103; 14 W. R. 479, 480; 12 Jur., N. S. 627, 628; 13 L. T., N. S. 764.

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used "for keeping a pig." On reference to the original case, as stated by the barrister, the statement in the text was found to be the correct one.

(*a*) According to the report in the Law Times Reports the communication was external.



*Qualification in respect of “building and land” held satisfied by proof that building was of a permanent nature, that it was useful for occupation of the land, and that it added to value thereof, though in a small degree.*

**BOROUGH OF TOTNES.** The voter occupied a piece of land (value exceeding £10 per annum), with a stone building, roofed, upon it. The building had three walls, and was open in front, with a hay-loft over.

The land was used for depasturing the voter's own cattle, and the lower part of the building was useful as affording shade and shelter to them.

The building was worth to the tenant about 5s. a-year. [For the decision (in favour of the vote), see *Hodges v. Harris*, *post*, 134, 135]: *Adams v. Harris*, H. & P. 305, 310; H. & R. 328, 335; L. R. 1 C. P. 155, 159; 35 L. J. C. P. 101, 103; 14 W. R. 479, 480; 12 Jur., N. S. 627, 628; 13 L. T., N. S. 764.

*Qualification in respect of “building and land” held satisfied by proof that building was of a permanent nature, that it was useful for occupation of the land, and that it added to value thereof, though in a small degree.*

**BOROUGH OF TOTNES.** The voter occupied a piece of land (value exceeding £10 per annum), with a stone building, roofed, upon it. The building had three walls, and was open in front, with a hay-loft over. The land was used by the voter for depasturing other people's cattle, and the lower part of the building was useful as affording shade and shelter to them.

The building was worth about 5s. a-year to the tenant. [For the decision (in favour of the vote), see *Hodges v. Harris*, *post*, 134, 135]: *Prout v. Harris*, H. & P. 305, 310; H. & R. 328, 335; L. R. 1 C. P. 155, 159; 35 L. J. C. P. 101, 103; 14 W. R. 479, 480; 12 Jur., N. S. 627, 628; 13 L. T., N. S. 764.

*Qualification in respect of "building and land" held satisfied by proof that building was of a permanent nature, that it was useful for occupation of the land, and that it added to value thereof, though in a small degree.*

BOROUGH OF TOTNES. The voter occupied, at a rent exceeding £10 per annum, a piece of land, with a building, roofed, upon it.

The building had three stone walls, and was open in front. The land was used for grazing the voter's cattle, and the building was useful, as affording shade and shelter to them.

The building was worth to the tenant about 5s. a-year. [For the decision (in favour of the vote), see *Hodges v. Harris, infra*]: *Berry v. Harris*, H. & P. 305, 311; H. & R. 323, 336; L. R. 1 C. P. 155, 159; 35 L. J. C. P. 101, 104; 14 W. R. 479, 480; 12 Jur., N. S. 627, 628; 13 L. T., N. S. 764.

*Qualification in respect of "building and land" held satisfied by proof that building was of a permanent nature, that it was useful for occupation of the land, and that it added to value thereof, though in a small degree.*

BOROUGH OF TOTNES. The voter occupied, at a rent exceeding £10 per annum, a piece of land, with a building, roofed, upon it.

The building had three stone walls, and was open in front. The land was used by the voter for the purpose of taking in other people's cattle to graze, and the building was useful as affording shade and shelter to them. The building was worth to the tenant about 5s. a-year.

Held, that the buildings (in this and the five next preceding cases (a)) being of a permanent nature, useful for the occupation of the land on which they

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(a) *Gilham v. Harris, Mason v. Harris, Adams v. Harris, Prout v. Harris, and Berry v. Harris.*

were placed, and *bonâ fide* adding to the annual value thereof, though in a small degree, were “buildings” within section 27 (a) of 2 Will. IV. c. 45: *Hodges v. Harris*, L. R. 1 C. P. 155, 159; H. & P. 305, 312; H. & R. 328, 336; 35 L. J. C. P. 101, 104; 14 W. R. 479, 480; 12 Jur., N. S. 627, 628; 13 L. T., N. S. 764.

*Structure substantially built, and used by voter for agricultural purposes in connexion with his land, a building within section 27 (a) of Reform Act, 1832.*

BOROUGH OF TOTNES. The appellant was on the list of voters in respect of “building and land.” He occupied, at a rent exceeding £10 per annum, a piece of land, with a stone building, roofed, upon it.

The building had four walls and a door, and was used by the appellant for keeping guano and other manures, which he put upon the land.

Held, reversing the barrister’s decision, that the structure was used for a purpose consistent with its being a “building” within section 27 (a) of 2 Will. IV. c. 45, and, consequently, not being deficient in form and durability, it was a “building” within that section, and the appellant was entitled to a borough vote in respect of it: *Norrish v. Harris*, L. R. 1 C. P. 155; H. & P. 305; H. & R. 328; 35 L. J. C. P. 101; 12 Jur., N. S. 627; 14 W. R. 479; 13 L. T., N. S. 762.

*Farming is a “business” within section 4 of the Companies Act, 1862.*

*Partners who cannot prove that they occupy as tenants without disclosing a partnership made illegal by above statute, not entitled to vote.*

BOROUGH OF TOTNES. The 4th section of the Companies Act, 1862 (25 & 26 Vict. c. 89) prohibits, with certain exceptions (immaterial to the present

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(a) Repealed, save as appears in note (b) *ante*, p. 103.

case), the formation of partnerships consisting of more than twenty persons, for the purpose of carrying on any "business that has for its object the acquisition of gain," unless registered under the Act.

Forty-three persons (parties to a consolidated appeal) were on the list of voters in respect of building and land.

They and three others (not parties to the appeal) had jointly hired land with a building upon it (rent £473 10s. per annum) with the double object of obtaining votes and making a profit by farming; but votes were the principal object.

The partners appointed a manager (one of their number), who farmed the land on their account.

The partnership was not registered under the Companies Act, 1862.

Held, 1. That farming was a "business" within the meaning of the Act.

2. That as the partners could not prove that they occupied as tenants, without having recourse to a contract which, in default of registration, was by the statute illegal, they were not entitled to be registered as voters (a) : *Harris v. Amery*, H. & P. 294; H. & R. 357; L. R. 1 C. P. 148; 12 Jur., N. S. 165; 35 L. J. C. P. 89; 13 L. T., N. S. 504; 14 W. R. 199.

(a) The case does not state whether the managing partner in occupation was or was not a party to the above consolidated appeal; but the court did not recognize any distinction between his position and that of his co-partners, in so far as his and their claims respectively to the franchise were concerned, and BYLES, J., as reported in the Jurist, expressly refers to him as "one of the claimants." It is submitted, however, that the managing partner, being in *actual* occupation of the property, had no need to resort to the illegal agreement, evidence of which was essential to his co-partners to enable them to prove their *constructive* occupation through him.

If the above distinction be well founded, and the managing partner was a party to the appeal, it would seem to follow that the appeals were improperly consolidated; see *Prior v. Waring*, 5 C. B. 56, *post*, "Practice," and *Robson v. Brown*, 1 C. B., N. S. 34, *post*, "Practice."

*A room in a set of chambers in the Temple, exclusively occupied by the sub-tenant thereof, and used by him solely for his business as a barrister, not a qualifying tenement within 2 Will. IV. c. 45, s. 27 (a).*

CITY OF LONDON. The respondent was on the list of voters in respect of his occupation, as tenant, of "Chambers."

His landlord rented a set of chambers in the Inner Temple, such set being so structurally severed from the rest of the buildings as to be of itself a house (b). It consisted of two rooms and a vestibule. There was no direct communication between the two rooms; but each had a door opening into the vestibule, which communicated with a landing on a public staircase by a door.

The respondent had the exclusive occupation of one of these rooms, as sole tenant thereof, together with a right of way over the vestibule; and he had, in common with his landlord, who occupied the other room, perfect control over the door on the landing.

The respondent was a barrister, and occupied his room solely for professional purposes, and not for a dwelling-house.

Held, that the subject of the respondent's occupation was not a sufficient tenement to entitle him to vote, within 2 Will. IV. c. 45, s. 27 (a): *Cuthbertson v. Butterworth*, L. R. 4 C. P. 523; 1 H. & C. 188; 38 L. J. C. P. 98; 17 W. R. 465; 21 L. T., N. S. 140.

*The mere fact of occupation being eleemosynary not necessarily inconsistent with occupation as owner.*

CITY OF HEREFORD. The appellant had, during the qualifying year, occupied one of several houses known as "Lord Coningsby's Hospital."

He had been separately rated, and had paid his rates.

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(a) Repealed, save as appears in note (b) *ante*, p. 103.

(b) See now section 5 of the Parliamentary and Municipal Registration Act, 1878.



The hospital was founded in 1614 for, and was occupied by, eleven needy persons who were called "servitors," but who performed no service.

These persons, of whom the appellant was one, were appointed to their respective houses by A., the owner of the Coningsby estate, whence the funds of the hospital were derived.

One of their number was elected by A. to superintend the rest, and was called "Corporal Coningsby."

The rules of the foundation had become partly obsolete, but A. could do as he liked with regard to the rules.

The servitors paid no rent, received fixed payments from the estate, and were supplied with clothing and coals from the hospital funds.

They were not allowed to enter, or go beyond the limits of, the hospital after 9 p.m. without the special leave of the superintendent.

They were bound, under the penalty of a fine, to attend chapel, to keep the windows of their houses clean, to refrain from certain misconduct, and not to be absent from the hospital for more than three days at a time without the superintendent's permission.

Each occupier held his house and a garden near it for his life, and was irremovable therefrom except for felony or the like. No "servitor" had ever let the house allotted to him, but the appellant had let his garden because he was too old to cultivate it.

Held, on the authority of *Simpson v. Wilkinson*, 7 M. & G. 50, *ante*, 2, 3, and *Roberts v. Percival*, 18 C. B., N. S. 36, *ante*, 34, 35, that the appellant had a freehold interest in the house he occupied, notwithstanding the eleemosynary character of his occupation, and that, consequently, he was entitled to vote, as occupying as owner, under 30 & 31 Vict. c. 102, s. 3: *Fryer v. Bodenham*, L. R. 4 C. P. 529; 1 H. & C. 204; 38 L. J. C. P. 185; 17 W. R. 294; 19 L. T., N. S. 645.

*Inhabitant occupier of dwelling-house not disqualified by proviso to section 3 of 30 & 31 Vict. c. 102, by reason of his taking in a lodger, to whom he let exclusive use of a bed-room, and joint use with himself of a sitting-room.*

BOROUGH OF BRADFORD. The appellant claimed to be registered in respect of his occupation of a dwelling-house. He had been, during the requisite period, an inhabitant occupier, as tenant, of a dwelling-house in the borough, and had been duly rated, and had paid his rates, in respect thereof.

For three months during such period, he had let a furnished bed-room in his house as a sleeping apartment to a lodger, together with the joint use with himself of another apartment as a sitting-room.

The appellant provided board for his lodger, and received a fixed weekly sum for the lodging and board.

Held, that the proviso in section 3 of 30 & 31 Vict. c. 102, must be read as though the words "joint occupier" were followed by the words "as owner or tenant," that the lodger not being such an occupier, the proviso did not apply, and, consequently, the appellant was entitled to be registered: *Brewer v. McGowen*, L. R. 5 C. P. 239; 1 H. & C. 275; 39 L. J. C. P. 30; 18 W. R. 167; 21 L. T., N. S. 462.

*Occupier as tenant of a set of chambers in the Temple not disqualified by sub-letting some of the rooms therein.*

CITY OF LONDON. The appellant was on the list of voters in respect of his occupation as tenant of a set of chambers in the Temple. These chambers, so structurally severed from the rest of the building as to be of themselves a house under 2 Will. IV. c. 45, s. 27 (a), consisted of three distinct rooms, not communicating together, and a vestibule into which the rooms respectively opened.

One of the rooms was occupied by the appellant

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(a) Repealed, save as appears in note (b) *ante*, p. 103.

for transacting the professional business of a barrister. He demised each of the other two rooms (unfurnished) to two tenants respectively, barristers, who had the exclusive use of them, occupying them for the purposes of their profession.

The appellant provided attendance and coals for the whole set, and whatever rates and taxes were payable (there were no poor rates) were paid by him.

The appellant and each of his tenants had a key to the outer door.

Held, that the appellant was the occupier as tenant of the whole set of chambers, notwithstanding the sub-letting of part thereof, and therefore was entitled to the franchise under 2 Will. IV. c. 45, s. 27 (a) : *Smith v. Lancaster*, L. R. 5 C. P. 246; 1 H. & C. 287; 39 L. J. C. P. 33; 18 W. R. 170; 21 L. T., N. S. 492.

*Residentiary canons of Exeter Cathedral occupy their dwellings, each as a corporation sole, and not as a member of the chapter, and are, consequently, entitled to city votes in respect of such occupation.*

CITY OF EXETER. The respondent, one of the residentiary canons of Exeter Cathedral, was on the list of voters, as occupier of the residentiary house belonging to him in respect of his canonry.

The dean and chapter of Exeter are a corporation aggregate.

The canons are appointed for life.

Each canon on his election produces the key of the house occupied by his predecessor, and prays to be admitted. As one of the canons he is elected and decreed to be installed, and thereupon takes possession of his house, which he repairs at his own expense, and with his enjoyment of which the chapter as a body cannot interfere.

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(a) Repealed, save as appears in note (b) *ante*, p. 103.

Held, that the proper inference from the above facts was, that the respondent occupied his house as a corporation sole, and not as a member of a corporation aggregate, and, consequently, that he was entitled to a borough vote under 30 & 31 Vict. c. 102, s. 3: *Ford v. Harington*, L. R. 5 C. P. 282; 1 H. & C. 331; 39 L. J. C. P. 107; 18 W. R. 289; 21 L. T., N. S. 609.

*The Naval Knights of Windsor held not to occupy their dwellings either as owners or tenants, but as members of an eleemosynary corporation.*

BOROUGH OF NEW WINDSOR. The respondent was on the list of voters in respect of his occupation of one of a range of seven dwelling-houses, known as Travers College.

Each of these houses was separately rated, and the respondent had paid the rates which had become payable in respect of that occupied by him.

He was one of the seven "Naval Knights of Windsor," having been duly appointed by royal warrant in 1867 to supply a vacancy in that body.

By virtue of his appointment he went into occupation of the house in question, which he chose with the consent of authority. He had to keep it in repair, and held it for life, subject to removal or expulsion for any of the causes specified below.

"The Naval Knights," an institution founded for the relief in perpetuity of seven unmarried naval officers, who have become superannuated or disabled, were incorporated by royal charter in 1798, and in the following year the land whereon Travers College stands was conveyed to the "knights" in their corporate name for the purposes of the institution.

The charter of incorporation, after reciting the will of the founder, ordained in pursuance thereof that the "knights" should be subject to a variety of rules, orders, and regulations, set forth in the charter, and to such others as should thereafter be framed by

the crown for their better government. Accordingly, one of the "knights" is governor of the rest; and they are all under the control of certain visitors.

They are to lead virtuous, studious, and devout lives, to attend daily service in the chapel in Windsor Castle, and to live together in a collegiate manner.

They are forbidden to sleep out at night, and cannot, during residence, absent themselves from college for more than ten days in any one year without leave.

They are liable to fines for breaches of discipline, and to removal or expulsion for any of the following causes:—

Refusal to pay fines, marrying, causing scandal, disobedience after two warnings, becoming convicted of any notable crime.

Held, that the respondent did not occupy as owner or tenant, but simply as a member of the corporation, and subject to restrictions which were inconsistent with his being owner of the house assigned to him, and that consequently, he was not entitled to a borough vote under 30 & 31 Vict. c. 102, s. 3: *Durant v. Kennett*, L. R. 5 C. P. 262; 1 H. & C. 297; 39 L. J. C. P. 17; 18 W. R. 286; 21 L. T., N. S. 603.

*A counting-house held to confer a qualification, although it was neither an entire building, nor structurally severed from the rest of the house of which it formed part.*

CITY OF LONDON. The respondent claimed to be inserted in the list of voters in respect of a counting-house.

The counting-house consisted of two rooms communicating with each other, and forming, together with the landing of the staircase, the first floor of a house.

The house had in former years been occupied as a dwelling-house, but the use of it as such had been



abandoned, and it had become appropriated to business purposes, being let out in separate holdings to tenants who occupied them as counting-houses or business offices; but no structural alteration had been made in any part of the house since it had been disused as a dwelling-house.

Each of the two rooms occupied by the claimant had a separate door to the landing of the staircase which gave access to the first floor and the floors above.

The claimant used the two rooms in question as a counting-house, in his trade or business of a wine merchant.

He alone, and to the exclusion of the landlord, had the keys of the doors that opened on to the landing.

After business hours these doors were locked and the keys taken away by the claimant or his clerk.

There was an outer door to the house opening on the street. This door was opened during the day, but after business hours it was closed and secured by a latch lock, of which the claimant had a key.

The claimant was rated in respect of the premises occupied by him, and he paid his landlord (the lessee of the entire house) a yearly sum of £65, for rates and rent; such rates being paid over by the landlord to the collector on the claimant's behalf.

All other requisites of the qualification were duly proved.

Held, that the rooms occupied by the claimant were, notwithstanding that there was no structural severance of them from the rest of the house, a counting-house, within section 27 (*a*) of the Reform Act, 1832, and, consequently, that the claimant was entitled to the franchise under that section (*b*): *Piercy*

(*a*) Repealed, save as appears in note (*b*) *ante*, p. 103.

(*b*) The 5th section of the Parliamentary and Municipal Registration Act, 1878, embodies the law contained in the above decision, and extends it to any part of a house separately occupied for the purpose of any trade, business or profession, whether such part be described as a "house," &c., in the terms used in section 27 of the Reform Act, 1832, or as an "office," "chambers," or "studio," or by any like term.

v. *Maclean*, L. R. 5 C. P. 252; 1 H. & C. 371; 39 L. J. C. P. 115; 18 W. R. 732; 22 L. T., N. S. 213.

*The court were divided in opinion as to whether a severance (structural or practical) were needed to constitute part of a house a separate "dwelling-house" within section 61 of Representation of People Act, 1867.* •

CITY OF LONDON. II. was on the list of claimants in respect of a "house."

He occupied, as tenant, one room in a house, and was separately rated in respect thereof.

The house (originally built for one family) consisted of nine rooms, let out in tenements, some of two rooms, the others of one. Each tenant had the exclusive use and occupation of his room or rooms, but the passage, staircase, and certain conveniences (consisting of a privy and ashpit) were common to all the tenants.

The outer or street door was never closed, and was without lock or bolt available, although it retained two staples, through which a bolt formerly was, and still might be, shot.

The owner did not reside on the premises.

The revising barrister decided that the premises occupied by the claimant were not a dwelling-house within 30 & 31 Vict. c. 102, and disallowed the claim.

Held, per WILLES and BRETT, JJ., that the decision should be affirmed.

Per WILLES, J., that the words in section 61, "any part of a house occupied as a separate dwelling," mean a dwelling-house, such as would, according to *Cook v. Humber*, 11 C. B., N. S. 33, *ante*, pp. 125, 126, have been a house within the Reform Act, 1832, *i. e.*, part of a house structurally severed from the rest of the house of which it forms a part (*a*).

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(a) See now section 5 of the Parliamentary and Municipal Registration Act, 1878.

Per BRETT, J., that, although there need not be a structural, there must be a practical, separation, in order to satisfy the section.

Held, per BOVILL, C. J., and KEATING, J., that the decision should be reversed, and that no severance or separation, structural or practical, was required: *Thompson v. Ward*, L. R. 6 C. P. 327; 1 H. & C. 530; 40 L. J. C. P. 169, 170; 24 L. T., N. S. 679.

*The court were divided in opinion as to whether a severance (structural or practical) were needed to constitute part of a house a separate "dwelling-house" within section 61 (a) of Representation of People Act, 1867.*

CITY OF EXETER. The appellant was on the list of voters in respect of his occupation of a "dwelling-house."

He occupied, as tenant, two rooms in a seven-roomed house, and was separately rated in respect of them. The other rooms were occupied by another tenant.

The two rooms occupied by the appellant were on different floors, and the appellant could not get from one room to the other without using a passage, staircase, and landing, which were common to both tenants.

The house had a front door, which was generally kept open by day and shut by night, being fastened by an ordinary latch and bolt.

The door was fastened sometimes by the appellant, and sometimes by the other tenant.

Neither had any right to exclude the other from the use of the front door.

The owner did not reside on the premises.

The revising barrister decided that the two rooms did not constitute a dwelling-house within 30 & 31 Vict. c. 102, and expunged the appellant's name.

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(a) See now section 5 of the Parliamentary and Municipal Registration Act, 1878.

Held, per WILLES and BRETT, JJ., that the decision should be affirmed.

Per BOVILL, C. J., and KEATING, J., that it should be reversed (a) : *Ellis v. Burch*, L. R. 6 C. P. 327, 329 ; 1 H. & C. 530, 537 ; 40 L. J. C. P. 169 ; 24 L. T., N. S. 679.

*Rector's absence abroad from October to June in qualifying year, a curate living in rectory-house during such period, with rector's sanction, and under a licence from the bishop requiring him (the curate) to reside there, held to be a break of residence which disentitled rector for the borough franchise.*

**BOROUGH OF NEW WINDSOR.** The respondent, the rector of Clewer, was on the list of voters in respect of his occupation of the rectory-house.

He had been absent from the house from October to June of the qualifying year under the following circumstances :—

He obtained from the bishop a licence for non-residence from 17th May, 1871, until 31st December, 1872, under 1 & 2 Vict. c. 106. He, however, remained in possession of the house till October, 1872, when he went abroad for the winter, with the intention of returning in the spring.

Upon the respondent's departure in October, 1872, a stipendiary curate, licensed by the bishop to serve the cure, went to reside in the house, being required to do so by his licence, and continued to reside in it until the respondent's return in June, 1873.

Before leaving, the respondent arranged with the curate that three rooms in the house should be retained by the respondent for his own use.

These three rooms were kept locked up, and the key left with a servant who had been employed by the respondent, but was during his absence paid by the curate.

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(a) See the judgments in *Thompson v. Ward*, *supra*. See also section 5 of the Parliamentary and Municipal Registration Act, 1878.

It was admitted by the respondent that if he had returned before June, 1873, he could not have required the curate to leave, without providing accommodation for him elsewhere.

Held, that the respondent had not “resided” for the six months next previous to the last day of July in the qualifying year, as required by section 27 (*a*) of the Reform Act, 1832, and that he had not been an “inhabitant occupier” for the whole of the qualifying twelve months (*b*), as required by section 3 of the Representation of the People Act, 1867, and, consequently, that he was not entitled to the franchise under either of those sections: *Durant v. Carter*, L. R. 9 C. P. 261; 2 H. & C. 142; 43 L. J. C. P. 17; 22 W. R. 158; 29 L. T., N. S. 681 (*c*).

*Exchange of duties, residences, and servants, between an incumbent in a parliamentary borough and a brother clergyman (living more than seven miles from the borough) for a few weeks during qualifying year, held a break of residence disentitling incumbent for the borough franchise.*

**CITY OF EXETER.** The respondent, the incumbent of a parish near Exeter, was on the list of voters in respect of his occupation of a house of an annual value exceeding £10.

He had for some years past, except as hereinafter mentioned, continuously occupied and resided in the said house.

(*a*) Repealed, save as appears in note (*b*) *ante*, p. 103.

(*b*) See now, as to the requisite period of occupation and residence, section 7 of the Parliamentary and Municipal Registration Act, 1878.

(*c*) The House Occupiers' Disqualification Removal Act, 1878 (41 Vict. c. 3), enacts (section 3) that “every man shall be entitled to be registered and to vote under the provisions of the said section” (section 3 of the Representation of the People Act, 1867), “notwithstanding that during a part of the qualifying period not exceeding four months in the whole he shall by letting or otherwise have permitted the qualifying premises to be occupied as a furnished house by some other person.”



In June of the qualifying year the respondent and a brother clergyman, the vicar of a parish distant more than seven miles from the city of Exeter, in pursuance of an arrangement between them, and with the object of obtaining change of air, exchanged their duties and residences for the months of July and August.

The respondent left his servants (excepting one) in his house to wait upon the vicar, continuing the payment to them of their wages, and sometimes sending them directions as to their conduct.

He, moreover, retained two rooms in his house (a bed-room and a dressing-room), these being either locked up or occupied by one of his servants; but he retained these rooms not with any intention of using them while the vicar remained in the house, but simply to prevent them from being disturbed while he (the respondent) was away.

The respondent did not return, or contemplate returning, during the two months.

Held, that there was a break of residence fatal to the respondent's acquirement of the franchise (*a*): *Ford v. Pye*, L. R. 9 C. P. 269; 2 H. & C. 157; 43 L. J. C. P. 21; 22 W. R. 159; 29 L. T., N. S. 684.

*A sergeant of militia required by superior authority to reside in a particular house with a view to the performance of his duties, though such residence was not necessary for their performance, held not to occupy as tenant (b).*

BOROUGH OF DEVIZES. D. was on the list of voters in respect of his occupation of a house.

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(*a*) A person circumstanced as was the respondent in the above case would now be entitled to the franchise as an "inhabitant occupier," under section 3 of the Representation of the People Act, 1867, by virtue of section 3 of the House Occupiers' Disqualification Removal Act, 1878. See the last-named section quoted in note (*c*) to the preceding case.

(*b*) See now 48 Vict. c. 3, s. 3, and cases decided on that section, *post*, pp. 184—203.

He was a sergeant on the permanent staff of the Wiltshire militia, and as such occupied the house in question.

By section 2 of the Militia Pay Act (31 & 32 Vict. c. 76), it is enacted, that (with an exception not material to the present case), "every member of the permanent staff of the regular militia when disembodied, shall reside in such places as shall be sanctioned by the secretary of state for war."

Under section 3 of the Militia Law Amendment Act, 1874, the above Act ceased to be in force as an Act of parliament, but was to have the same effect as if its provisions had been embodied in a royal warrant.

The house occupied by D. had been duly sanctioned by the secretary of state for war, and had been assigned to D. by the commanding officer of the regiment, to live in.

Both it, and other similar houses, had been built under the provisions of the Militia Law Amendment Act, 1854, and they all stood close to the buildings in which the militia stores were kept, the houses being intended for the accommodation of the men employed in looking after the stores.

It was D.'s duty to look after the stores, and he was bound to live in the house assigned to him, although he could perform his duties equally well if residing elsewhere.

Had he left the house without the permission of his commanding officer, he would probably have been dismissed the service, as for a breach of discipline.

He was, moreover, liable to be turned out of the house at any moment at the will of his commanding officer.

The sum of 2s. 4d. per week was deducted from his pay as occupier of the house, but if he had resided elsewhere (as, with permission, he might have done), he would not have received the 2s. 4d. extra.

Held, reversing the decision of the revising bar-

risters, that D. did not occupy as tenant within section 3 of 31 & 32 Vict. c. 102: *Fox v. Dally*, L. R. 10 C. P. 285; 2 H. & C. 261; 44 L. J. C. P. 42; 23 W. R. 244; 31 L. T., N. S. 478.

*Borough voter, in order to establish his franchise in respect of occupation as tenant, has no need to prove his landlord's title.*

BOROUGH OF NORTHALLERTON. B. and another on the list of occupiers in respect of "building and land (joint)," were objected to on the ground that they had no qualifying interest in the premises.

By a memorandum of agreement of 2nd July, 1878, between one F. (described therein as "the landlord") of the one part, and B. and two other persons (described therein as "the tenants") of the other part, it was agreed that "the landlord" should let, and the "tenants" take, the premises in question from 1st January, 1878, for one year, and so on from year to year, at an annual rent of £34.

"The tenants" had taken possession under the agreement. The beneficial interest in the premises was in F.'s mother for her life under a deed of settlement of which F. and his brother were co-trustees. At the date mentioned in the memorandum of agreement, as that of the commencement of the tenancy (1st January, 1878), and for five or six years previously, F. had himself rented and occupied the premises in question (under an oral agreement) as tenant to his mother.

It was contended at the Revision Court, in support of the objection, that, the legal estate being in F. and his co-trustee by virtue of the deed of settlement, F. was not in any legal sense the tenant of the premises so as to be in a condition to sub-let them.

The revising barrister was of that opinion, and held that no substantive interest in the premises had been vested in B. and the two other persons under the memorandum of agreement. He accordingly expunged the names objected to from the list.

The court reversed the decision, on the ground that for the borough occupation franchise created by section 27 (a) of the Reform Act, 1832, it is unnecessary to prove the landlord's title. *Fowle (b) v. Trevor (b)*, 1 Colt. Reg. Cas. 82.

*A granary, forming the upper floor of part of a building, but structurally severed therefrom, with a doorway (the only entrance) eight feet from the ground, and accessible only by movable steps, which had to be removed from time to time to prevent obstruction, held a "building" conferring the franchise, within Reform Act, 1832, section 27 (a).*

BOROUGH OF NORTHALLERTON. R. and two other persons were on the list of voters in respect of their occupation (as tenants) of premises, the qualifying nature of which was described in the third column as a "Building (joint) and land (joint)."

The structure described above as a "building" was a granary, and it formed the upper floor of part of a building, the lower part of which consisted of a stable, a passage, and a barn. The passage, which separated the stable from the barn, was open at one end, and led to a cowhouse beyond. Over the stable and passage was the granary in question. There was nothing above it but the roof of the building. The only means of access to the granary was a door in the outer wall of the building and over the open end of the passage.

The door sill was eight feet from the ground, and,

(a) Repealed, save as appears in note (b) *ante*, p. 103.

(b) The declarations appended to the statement of the case in the above (consolidated) appeal were made and signed, the one by William Fowle and the other by William C. Trevor, simply *on behalf* of the persons interested as appellants and respondents respectively. Neither declarant appears to have been "interested" in the matter of the appeal otherwise than in the capacity of agent. As to the sufficiency of such a declaration in a consolidated appeal, see the observations of the court in *Wanklyn v. Woollett*, 4 C. B. 97, 98, 99, and sections 42 and 44 of 6 Vict. c. 18.

to get up to the doorway, R. and his co-tenants used a movable set of wooden steps, which were in their sole and exclusive occupation. These steps when in use were necessarily placed at the open end of the passage, and there so obstructed the thoroughfare that they had to be removed from time to time to allow of egress from the passage.

The granary was separately occupied by R. and his co-tenants for the purpose of business.

The revising barrister held, on objection, "that the granary was not such a part of a building as to be of itself and by itself a 'building' within the meaning of the statutes relating to the borough franchise," and he therefore expunged R.'s name and those of his co-tenants from the list of voters.

The court reversed the decision, *Trevor (a) v. Fowle (a)* [not reported].

*Although by section 5 of 41 & 42 Vict. c. 26 the term "dwelling-house" in 30 & 31 Vict. c. 102 is to include "any part of a house separately occupied as a dwelling," the dwelling-house franchise is not acquired by the tenant of part of a house thus occupied by him, unless he occupies so independently of his landlord's control as to be rateable under 43 Eliz. c. 2.*

BOROUGH OF CHELSEA. B. claimed to have his name inserted in the list of inhabitant occupiers. He had occupied as his residence for the requisite period one unfurnished room in a dwelling-house, at a weekly rent of 3s. 6d., he furnishing such room and residing in it with his wife and family. The clear yearly value of the room if let unfurnished was less than £10. The room was rented by B. from the

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(a) The declarations appended to the revising barrister's statement were made and signed by the declarants simply as *agents*, neither being personally "interested" in the matter of the appeal. See the note to *Fowle v. Trevor*, *supra*.



tenant of the entire house, who held of the owner of the house at a yearly rent. B. had a key of the outer door. The house comprised more rooms than that occupied by B.

B.'s immediate landlord resided on the premises, and, subject to the occupation by B. and his right of access to and from the outer door, exercised a general control (*a*) over the whole house, but supplied no service to B. either personally or by servants. Subject to the question whether the room so occupied by B. was or was not a dwelling-house for the purposes of the Representation of the People Act, 1867, B. was in all respects qualified to be on the list of voters as an inhabitant occupier.

It was contended before the revising barrister that B. was the separate occupier of a room constituting for the purposes of the Representation of the People Act, 1867, by virtue of section 5 of the Parliamentary and Municipal Registration Act, 1878, a dwelling-house, as tenant, and as such entitled to be on the list of occupiers.

The revising barrister disallowed the claim on the ground that, as the renter of the entire house resided in the house, and exercised a general control over it, the occupation by B. was that of a lodger, and not that of an inhabitant occupier, as tenant, of a dwelling-house.

The court (Q. B. D.) reversed the decision on the ground that the room in respect of which B. claimed, being "separately occupied" by him "as a dwelling," constituted a "dwelling-house" within section 3 of the Representation of the People Act, 1867, by virtue of section 5 of the Parliamentary and Municipal Registration Act, 1878.

Leave to appeal having been granted under 44 & 45 Vict. c. 68, the Court of Appeal reversed the deci-

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(*a*) It was admitted on the argument in the Queen's Bench Division that no facts in support of this statement could be stated beyond what were to be gathered from the case itself.

sion of the court below, being of opinion that B.'s occupation, although separate, was not of such an independent character as to render him capable of being rated in respect thereof under 43 Eliz. c. 2, and that consequently he occupied as a mere lodger, and not as an inhabitant occupier of a dwelling-house (a)

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(a) In the absence of any exhaustive definition (statutory or judicial) of the distinction between the dwelling-house franchise and the lodger franchise, the subjoined extracts from the judgments of JESSEL, M. R., and LINDLEY, L. J., in *Bradley v. Bayles*, *Morfee v. Norris*, and *Kirby v. Biffin* (the three cases having been argued together), may serve as a guide to revising barristers in deciding questions involving such distinction:—

JESSEL, M. R.: “It seems to me, as to unfurnished lodgings (and I will only deal with unfurnished lodgings, as it is the only class of cases with reference to which questions are likely often to arise), where the owner of a house does not let the whole of it, but retains a part for his own residence, and resides there, and where he does not let out the passages, staircases, and outer door, but retains the ownership of all of them, giving to the ‘inmates’ I use that term for my present purpose, merely a right of access, which is sometimes called a right of ingress and egress, and retaining a control over the passages, staircases, and outer door, with a right of interfering,—I do not mean an actual interference, but a right to interfere,—a right to turn out trespassers, and so on; there I consider that the owner is the occupying tenant of the house, and the inmate, whether he has or has not the exclusive use of the room, is a *lodger*. That is one extreme case.

“Now I take another. Where the landlord lets out the whole of the house into separate apartments, and lets out each floor separately, so as to demise the passages, reserving simply to each inmate of the upper floors the right of ingress and egress over the lower passages, but parts entirely with the whole legal ownership for the term demised, and retains no control over the house; there, in my opinion, the inmates are *occupying tenants*, and are capable of being rated as such. That is the extreme case on the other side.

“There will be an immense number of intermediate cases, which, as I said before, can only be dealt with as they arise. I have dealt with them as well as I can, but, for the reasons I have given, I can only deal with them imperfectly. I have tried in vain to frame an exhaustive definition satisfactory to my own mind. Take such a case as the first of those before us. Does it make any difference that the inmates have latch keys to the outer door and also keys to the inner door? I think not. I think they are still lodgers notwithstanding. Does it make any difference that the landlord does not reside there personally, but has resident servants, who occupy, on his behalf, part of the house? I think not. I think the inmates are still *lodgers*. Does it make any

within the meaning of the statutes: *Bradley v. Baylis*, L. R. 8 Q. B. D. 195; *Colt. Reg. Cas.* 163; 51 L. J. Q. B. D. 183; 46 L. T., N. S. 253; 30 W. R. 823.

difference that the landlord does or does not repair, or does or does not pay rates or taxes? I think not; they are still *lodgers*.

“On the other hand, suppose a landlord does not demise the whole of the house, but demises all the rooms in it—everything that can be demised, in fact, except the passages and staircases, &c., as to which he gives the inmates the right of ingress and egress, but exercises no control over, and does not reside in, or interfere in any way with, the house—I think the inmates are occupying tenants. The fact of the passages and staircases, &c., not being actually demised, is not sufficient to distinguish them from occupying tenants. Here, again, does the fact of the landlord repairing or paying rates and taxes make any difference? I think not. In the case of tenants from year to year it very often happens that the landlord repairs. But his right to enter in order to make such repairs does not, in my opinion, prevent the occupation of the tenant being a separate and rateable occupation:” *Colt. Reg. Cas.* 210, 211, 212.

LINDLEY, L. J.: “The distinction between tenants who are not lodgers and tenants who are lodgers, must be discovered from other sources than the statutes, and it is extremely difficult to draw the line between them. At the same time, the word ‘lodger’ involves the idea of lodging with some one else from whom he hires his lodging; whilst the word ‘tenant’ does not involve, although it does not exclude, this idea; and this difference gives the clue to the distinction which the statutes have made. Taking this difference as a guide, it appears to me that, where a house is wholly let out in unfurnished apartments, separately occupied by tenants, and their landlord does not reside in the house, and has no servant in the house to look after it for him, the tenants are rateable and are not lodgers; whilst, on the other hand, where a house is let out in unfurnished apartments to tenants, and their landlord resides in the house, or has a servant in it, to look after it for him, then it appears to me that such tenants are not rateable and are lodgers:” *Colt. Reg. Cas.* 247, 248.

*Although by section 5 of 41 & 42 Vict. c. 26 the term "dwelling-house" in 30 & 31 Vict. c. 102 is to include "any part of a house separately occupied as a dwelling," the dwelling-house franchise is not acquired by the tenant of part of a house thus occupied by him, unless he occupies so independently of his landlord's control as to be rateable under 43 Eliz. c. 2.*

BOROUGH OF HASTINGS. M. claimed to have his name inserted in the list of parliamentary voters in respect of his occupation of a dwelling-house.

He occupied two rooms on the first floor of a house, using one as a bedroom and the other as a sitting-room, he and his wife taking their meals in the latter, and his wife doing the cooking therein.

M. rented the rooms in question, unfurnished, at the weekly rent of 3s., and his landlord, who was the tenant of the house, which consisted altogether of six rooms, occupied as his residence the entire house, with the exception of the two rooms let to M.

M. and his landlord each had a key of the outer door, and each could let himself in and out as he pleased.

There was a washhouse attached to the house, and it was used in common by M. and his landlord.

It was no part of the agreement of letting that the landlord should, nor did he in fact, supply attendance, or render any service to M., the wife of the latter doing all that she and her husband required for the inhabitancy of the rooms occupied by them.

The landlord was alone rated to the poor rates in respect of the occupation of the entire house, and he duly paid such rates. M. had the exclusive use of the rooms rented by him, and all the requisites for entitling him to be registered in accordance with his claim were proved, if he were an occupier of a dwelling-house within the meaning of section 3 of the Representation of the People Act, 1867, as amended by section 5 of the Parliamentary and Municipal

Registration Act, 1878, by reason of his occupation of the two rooms in question under the circumstances above stated.

The revising barrister disallowed the claim, being of opinion that M. did not occupy the two rooms as an inhabitant occupier within the meaning of the statutes, but as a lodger only.

The court (Q. B. D.) reversed the decision on the ground that the rooms in respect of which M. claimed being "separately occupied" by him "as a dwelling," constituted a "dwelling-house" within section 3 of the Representation of the People Act, 1867, by virtue of section 5 of the Parliamentary and Municipal Registration Act, 1878.

Leave to appeal having been granted under 44 & 45 Vict. c. 68,

The Court of Appeal reversed the decision of the court below, being of opinion that M.'s occupation, although separate, was not of such an independent character as to render him capable of being rated in respect thereof under 43 Eliz. c. 2, and that consequently he occupied as a mere lodger, and not as an inhabitant occupier of a dwelling-house within the meaning of the statutes (*a*): *Morfee v. Norris*, L. R. 8 Q. B. D. 195; Colt. Reg. Cas. 163; 51 L. J. Q. B. D. 183; 46 L. T., N. S. 253; 30 W. R. 823.

*One who separately occupies, as tenant, part of a house (wholly let out in similar tenancies) is not the less an inhabitant occupier of a dwelling-house within 30 & 31 Vict. c. 102, and 41 & 42 Vict. c. 26, by reason of the landlord being rated, paying the rates, doing the repairs, and not demising the passage and staircase.*

CITY OF WESTMINSTER. B. claimed to have his name inserted in the list of voters in respect of a

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*a*. See, as to the distinction between an "inhabitant occupier, as tenant," and a "lodger," note (*a*) to *Bradley v. Baylis*, *ante*, on pp. 154, 155.



dwelling-house. He occupied, as tenant, at a weekly rent of 7s., two rooms (furnishing them himself) on the first floor of a house. These rooms were not structurally severed from the rest of the house, nor separately rated, nor was B.'s name entered in the occupiers' column of the rate-book; but the landlord was rated for the whole house, which contained eight rooms, and was wholly let out in similar tenancies, the landlord paying all rates and taxes, including water-rate, in respect of the entire premises, and also doing all painting and repairs inside and out. B. had, in common with the other tenants, the use of the passage, staircase, street door, and conveniencies of the house.

The landlord did not reside in the house, nor did he personally or by his servants retain the control and dominion over the house or any part of it, or render any services to any of the tenants. He simply received his rents from them.

B.'s claim was opposed, the contention being that he was a mere lodger, and not the occupier of a dwelling-house within 30 & 31 Vict. c. 102, and 41 & 42 Vict. c. 26.

The revising barrister decided that the claim was good, and placed B.'s name on the householders' list.

The court (Q. B. D.) affirmed the decision on the ground that the rooms in respect of which B. claimed, being "separately occupied" by him "as a dwelling," constituted a "dwelling-house" within section 3 of the Representation of the People Act, 1867, by virtue of section 5 of the Parliamentary and Municipal Registration Act, 1878.

Leave to appeal having been granted under 44 & 45 Vict. c. 68,

The Court of Appeal affirmed the decision of the court below on the ground that, although the landlord was rated (*a*), paid the rates (*a*), did the repairs, and

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(*a*) Sec 32 & 33 Vict. c. 41, s. 19, and 41 & 42 Vict. c. 26, s. 14.

had not demised the staircase and passage, B. nevertheless occupied the rooms in question so independently of his landlord's control as to be capable of being rated under 43 Eliz. c. 2, and consequently was entitled to be registered as an inhabitant occupier of a dwelling-house within the meaning of the statutes (*a*): *Kirby v. Biffen*, L. R. 8 Q. B. D. 195; Colt. Reg. Cas. 163; 51 L. J. Q. B. D. 183; 46 L. T., N. S. 253; 30 W. R. 823.

(*a*) See, as to the distinction between an "inhabitant occupier, as tenant," and a "lodger," note (*a*, to *Bradley v. Baylis*, *ante*, on pp. 154, 155.

In a schedule to the principal case (with which the revising barrister had consolidated other appeals) it was stated that some of the persons named therein occupied only a room on one floor, and that others occupied rooms on different floors. B., it will be observed, occupied two rooms on one floor.

BRETT, L. J., expressed a doubt whether, regard being had to the above distinctions, the appeal had been properly consolidated, but added that, as the revising barrister had included the cases thus varying in detail from the principal case in a schedule thereto, "the court must assume" all the cases to be alike; and he accordingly intimated that the question remains open whether a person who separately occupies as a dwelling two rooms on different floors, using one room as a bedroom and the other as a sitting-room, is an inhabitant occupier of a dwelling-house within the meaning of the statutes. It is respectfully submitted that this question has been settled by the decision in *Kirby v. Biffen*. The fact of the majority of the court not having questioned the propriety of the consolidation implies that they perceived no substantial distinction between the cases. Had they been of opinion that the facts of each case were not so similar that a judgment in one of the cases would govern the rest, it would appear to have been their duty, on the authority of *Prior v. Waring*, 5 C. B. 56, to refuse to entertain the appeal on the ground that the court had no jurisdiction.

It would seem, then, that, for the purpose of the dwelling-house franchise, it is immaterial whether a person separately occupies as a dwelling one room or more than one room on a single floor, or whether he so occupies rooms on different floors. In each case he would, on the other conditions of the franchise being fulfilled by him, become entitled to vote in respect of a dwelling-house.

*Tenant who at the commencement of qualifying year separately occupies as his dwelling part of a house, which at that period is wholly let out in similar tenancies, does not lose his status as an "inhabitant occupier of a dwelling-house," and become a "lodger," by reason of one of the other tenants relinquishing his tenancy and giving up his keys to landlord during qualifying year; at all events if landlord does not exercise any control over the house beyond that which is involved in his taking the usual steps to re-let the vacant tenement.*

BOROUGH OF CHELSEA. R. was objected to on the list of occupiers. He had for upwards of twelve calendar months next previous to 15th July separately occupied as his residence a room in a dwelling-house at a weekly rent. At the commencement of the qualifying year the dwelling-house, of which R.'s room formed part, was wholly let out in similar tenancies, each of them being of a nature to qualify its tenant to vote as an "inhabitant occupier of a dwelling-house" within section 3 of 30 & 31 Vict. c. 102, and section 5 of 41 & 42 Vict. c. 26.

During the qualifying year one of the tenants relinquished his tenancy, and gave up the key of his room and the front door key to the landlord, who thereupon took the usual steps to obtain a new tenant for the vacated room. The landlord did not, during any portion of the qualifying period exercise any control over the house or any part of it, except such control (if any) as may have by law devolved upon him in consequence of the vacation of the room, and the delivery up to him of the keys by the outgoing tenant, as above stated.

It was contended at the Revision Court on behalf of the objector that, on the outgoing tenant vacating his room and giving up his keys, the landlord thereupon *ipso facto* was by law restored to such control over the house as to change the status of R. from that of an inhabitant occupier to the status of lodger

in his room, and that, having been during part of the qualifying period an inhabitant occupier of, and during another part of such period a lodger in, his room, he was not entitled to have his name retained on the occupiers' list.

The revising barrister overruled the objection, being of opinion that R. had continued to be an inhabitant occupier during the whole period of qualification.

The court (Q. B. D.) affirmed the decision.

Leave to appeal having been granted under 44 & 45 Vict. c. 68,

The Court of Appeal, affirming the decision of the court below, held that, the landlord not having exercised a general control over the entire house, the status of R. as an "inhabitant occupier" (which [*semble*] could not be changed without his submission or consent) (*a*) was not converted into that of a "lodger," and consequently that his vote was properly allowed by the revising barrister (*b*): *Aneketill v. Baylis*, L. R. 10 Q. B. D. 577; Colt. Reg. Cas. 289; 52 L. J. Q. B. D. 104; 48 L. T., N. S. 342; 31 W. R. 233.

(*a*) It would seem that, whereas a tenant cannot, without his consent or submission, be converted into a lodger, a lodger may be converted into a tenant by the act of his landlord. See per LINDLEY, L. J., in *Morton v. Palmer*, 51 L. J. Q. B. D. on pp. 11 and 12, and in *Aneketill v. Baylis*, Colt. Reg. Cas. on pp. 305 and 306.

(*b*) This decision overrules a dictum of BRETT, L. J., in *Bradley v. Baylis*, where he is reported as follows: "Supposing a man remains in the house and lets off several rooms to different persons who are then his lodgers, and he afterwards lets off all the rest of the rooms and leaves the house and preserves no actual control over it, so that he is not to go into it, either by his servants or by himself, then those persons who were before lodgers have become by that fact householders. But supposing during the qualifying year one of those lodgers leaves, and the owner thereupon (as assuredly he must) resumes the control over that unlet part, according to my view of the statutes, immediately by that act of his those people left in the house who have been householders become lodgers again." L. R. 8 Q. B. D. 235, 236.

*The municipal franchise stands on the same footing as the parliamentary franchise as regards the separate occupation of part of a house. Therefore, where a man separately occupied rooms in a house, he was held to be entitled to the municipal franchise in respect of such occupation, although the rooms were used by him as a dwelling only, and not "for business purposes."*

BOROUGH OF PLYMOUTH. A. was objected to on the list of voters (Division One) for Vintry Ward in the parish of St. Andrew.

He separately occupied as a private dwelling only, two rooms at 9, Batter Street, in which house there were four other residents. It was contended at the Revision Court that, as A. occupied the rooms as a private dwelling only, and not "for the purposes of any trade, business, or profession," the rooms so occupied by him did not constitute a house within sects. 9 and 31 of the Municipal Corporations Act, 1882, so as to create a municipal qualification.

The revising barrister having decided against this contention, the court held, affirming the decision, that the municipal franchise was on the same footing as the parliamentary franchise in respect of the separate occupation of part of a house, and that A., being undoubtedly entitled to the parliamentary franchise by virtue of the decision in *Bradley v. Baylis* (L. R. 8 Q. B. D. 195, *ante*, pp. 152—155), was consequently entitled to his municipal vote: *Greenway v. Batchelor* (*Aldridge's case*), L. R. 12 Q. B. D. 381; 1 Colt. Reg. Cas. 317; 53 L. J. Q. B. D. 180; 50 L. T., N. S. 272; 32 W. R. 319.



*A voter, whose name was expunged from Division I. in consequence of an objection to his parliamentary vote only, was held not entitled to have his name transferred to Division III. without proof of his being qualified as a burgess.*

BOROUGH OF PLYMOUTH. A notice of objection to the name of a person on the list No. 1 (Division One) for the parish of St. Andrew was in accordance with Form (I.), No. 2 (Parliamentary), in the schedule to 41 & 42 Vict. c. 26. The objection was admittedly fatal to the parliamentary vote of the person objected to; but it was contended before the revising barrister that, regard being had to the form of the notice of objection, the municipal vote was unchallenged, and that, consequently, the name should be transferred to Division Three. The revising barrister consented so to transfer the name upon proof of a municipal qualification. Such proof not being forthcoming, he struck off the name from the lists altogether.

On appeal, the court held that the revising barrister was right: *Greenway v. Batchelor (Jacob's case)*, L. R. 12 Q. B. D. 376; 1 Colt. Reg. Cas. 322; 53 L. J. Q. B. D. 179; 50 L. T., N. S. 270; 32 W. R. 320.

## BOROUGH FRANCHISE—RESERVED RIGHTS.

*A merely colourable residence insufficient to qualify  
under 2 Will. IV. c. 45, s. 32.*

**BOROUGH OF TEWKESBURY.** The appellant claimed, in 1844, to be inserted in the list of freemen for the borough of Tewkesbury.

He, with his wife and servant, resided at Gloucester, where he carried on the business of a wine merchant.

Gloucester is more than seven miles from Tewkesbury.

With the view of qualifying himself to vote for the borough of Tewkesbury, he had, since 1841, paid a friend 9*d.* a week for the use of a furnished bedroom and a dark closet in a house within the borough.

He had the key of the closet, and had kept some wine samples in it between January and July, 1844.

During that period he had slept in the bedroom twelve times, and in the course of the year ending July, 1844, sixteen times (*a*), on the occasions of his going to Tewkesbury on business.

He had never taken his meals at his friend's house, except as a guest.

The revising barrister having held that the appellant had not resided within the borough, so as to satisfy the requirements of 2 Will. IV. c. 45, s. 32,

(*a*) As the case originally stood, the number of times was stated to be "about twelve," and "about fifteen to twenty"; but this being objected to as being too vague, the statement was, by consent of the parties, handed to the revising barrister, who was present in court, for amendment; and he there and then amended it. See 8 Scott, N. R. 784, *note*.

The court affirmed the decision: *Whithorn v. Thomas*, 8 Scott, N. R. 783; 7 M. & G. 1; 1 Lutw. 125; 14 L. J. C. P. 38; 8 Jur. 1008; B. & Arn. 259.

*In order to be entitled to vote in respect of reserved rights under section 33 of Reform Act, 1832, voter must retain identical qualification which he had when that Act was passed.*

**BOROUGH OF NORTHAMPTON.** The respondent was objected to on the list of inhabitant householders.

Previously to the passing of the Reform Act, 1832, every person who had been an inhabitant householder within the borough for six calendar months next before the day of election, and who had not received parochial relief, or other alms, for the space of twelve calendar months then last, was entitled to vote.

By section 33 of the above-mentioned Act it is provided that "every person now having a right to vote in the election for any city or borough (with certain exceptions not material) shall retain such right of voting so long as he shall be qualified as an elector according to the usages and customs of such city or borough, or any law now in force, and such person shall be entitled to vote in the election of a member or members to serve in any future parliament for such city or borough if duly registered, &c.; but that no person shall be so registered in any year unless he shall, on the last day of July in such year, be qualified as such elector in such manner as would entitle him then to vote if such day were the day of election and this Act had not passed."

At the time of the passing of the Act (7th June, 1832), the respondent had a right to vote as an inhabitant householder, according to the usages and customs of the borough, and remained thus entitled until October, 1832, when he and his family ceased to reside at Northampton, and went to reside at

Bedford, where he stayed for fourteen weeks; he then returned to Northampton; immediately became an inhabitant householder thereat, and had so continued ever since.

He had in every year, since the passing of the Act, been an inhabitant householder, duly qualified according to the usages and customs of the borough, on the last day of July in each year.

Held, that the respondent, having once ceased to be an inhabitant householder at Northampton, did not “*retain the right of voting*” for the borough, within section 33 of the Reform Act, 1832, and was, therefore, not entitled to be registered: *Jeffery v. Kitchener*, 8 Scott, N. R. 923; 7 M. & G. 99; 1 Lutw. 210; 14 L. J. C. P. 75; 9 Jur. 138; B. & Arn. 359.

*In order to be entitled to vote in respect of reserved rights under section 33 of Reform Act, 1832, voter must retain identical qualification which he had when that Act was passed.*

BOROUGH OF NORTHAMPTON. [In this case the facts were in all material points the same as in *Jeffery v. Kitchener*, *supra*; it was, therefore, decided, without argument, in accordance with the decision in that case:] *Stanton v. Jeffery*, 8 Scott, N. R. 933; 7 M. & G. 109, *note*; 1 Lutw. 219, *note*; 14 L. J. C. P. 79, *note*; B. & Arn. 367, *note*.

*Proviso in section 32 of Reform Act, 1832, excluding freemen admitted, otherwise than by birth or servitude, after 1st March, 1831, does not apply to freemen and liverymen of the city of London.*

CITY OF LONDON. The respondent (a freeman and liveryman) was admitted a freeman *by purchase* after 1st March, 1831.

Held, that he was not within the disqualifying proviso in section 32 of 2 Will. IV. c. 45: *Croucher v. Browne*, 2 C. B. 97; 1 Lutw. 388; 15 L. J. C. P. 74; 10 Jur. 184; B. & Arn. 621.

*Non-payment of rates by scot and lot voter for one year, a suspension of right to be registered—not a permanent extinction of right to vote.*

BOROUGH OF WARWICK. The 33rd section of the Reform Act, 1832, provides, that “every person now having a right to vote in the election for any city or borough (with certain exceptions not material to the present case), shall retain such right of voting so long as he shall be qualified as an elector according to the usages and customs of such city or borough or any law now in force, and such person shall be entitled to vote in the election of a member or members to serve in any future parliament for such city or borough, if duly registered, &c.; but that no person shall be so registered in any year unless he shall, on the last day of July in such year, be qualified as such elector in such manner as would entitle him then to vote if such day were the day of election and this Act had not been passed.”

At the time of the passing of the Act, the right of voting in the borough of Warwick, according to the usages and customs thereof, was in the inhabitants paying scot and lot, and every person who had been duly rated for six calendar months next before an election, and had paid all rates due from him before the actual giving of his vote, was entitled to vote as such scot and lot voter.

B. claimed to be inserted in the list of voters as an inhabitant paying scot and lot.

He had been on the register every year as such inhabitant, with the exception of 1845, when his name was expunged in consequence of his rates due



on 31st July, 1845, remaining unpaid, and no tender thereof having been made (a).

He had paid on 31st July, 1846, all rates then due from him, including those which had remained unpaid in the previous year.

He had always been a resident occupier of a house within the borough, and been rated in respect of it.

Held, that the non-payment by B. of his rates for one year operated simply as a suspension of his right to be registered, and did not destroy the right to vote reserved to him by section 33 of the Act; and that, his qualification as an elector according to the usages of the borough having continued, he was entitled to be placed on the register in 1846: *Nicks v. Field*, (b) 4 C. B. 63; 1 Lutw. 566; 16 L. J. C. P. 61; 10 Jur. 1088.

*Where a party had been admitted a "free burgess," by birth, of the borough of Malmesbury before 1st March, 1831, and elected one of the "capital burgesses" (ancient voters) after that day, he was held not excluded from the franchise by section 32 of Reform Act, 1832, birth having made him eligible as a "capital burgess."*

**BOROUGH OF MALMESBURY.** The 32nd section of the Reform Act, 1832, provides that no person who shall have been elected, made, or admitted a burgess or freeman since the first day of March, 1831, otherwise than in respect of birth or servitude, or who

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(a) It does not appear from the case that these rates were ever demanded. Before a scot and lot voter could be disfranchised for non-payment of poor rate, it was necessary to prove that there had been either a personal demand, or a demand in writing left at the house: see per WILDE, C. J., 4 C. B. 69, citing *Cullen v. Morris*, 2 Stark. N. P. C. 577.

(b) In a note to this case, 4 C. B. 63, the learned reporter states that there was nothing to show that either appellant or respondent was "a person interested" in the appeal (a consolidated one), and refers to *Wanklyn v. Woollett*, 4 C. B. 86: see note to that case, *post*, "Practice."

shall hereafter be elected, made, or admitted a burgess or freeman otherwise than in respect of birth or servitude shall be entitled to vote, &c.

The corporation of Malmesbury consisted of four classes of burgesses or freemen:—

1. Capital burgesses.
2. Assistant burgesses.
3. Landholders.
4. Free burgesses or commoners.

Persons becoming members of the corporation were admitted thereto as free burgesses or commoners, and so in the first instance became members of the fourth or lowest class, one of the qualifications for membership whereof being in respect of birth.

Members of the fourth class were promoted to the third, as vacancies happened, by seniority, and vacancies in the second and first classes were filled up from the third and second by election.

Previously to the Reform Act, 1832, the right of voting was vested in the “capital burgesses” only.

P. had been admitted a free burgess or commoner, in respect of birth, before 1st March, 1831; and having afterwards become a landowner, and an assistant burgess, was finally, 2nd June, 1834, elected a capital burgess of the corporation.

Held, that P. was not disqualified by section 32 of the statute as “elected otherwise than in respect of birth,” birth having made him eligible as a “capital burgess”: *Gale v. Chubb*, 4 C. B. 41; 1 Lutw. 544; 16 L. J. C. P. 54; 11 Jur. 22.

*Residence of freeman beyond limits of ancient borough, but within limits of borough as extended by Boundary Act, 1832.*

BOROUGH OF SHREWSBURY. E. on the list of freemen was objected to, at the revision of 1851, on the ground that he had not resided within the borough, or within seven miles thereof, for the period prescribed by section 32 of 2 Will. IV. c. 45.

The borough boundary was extended by 2 & 3 Will. IV. c. 64.

E. had resided in a house within both the ancient and extended limits of the borough from 25th March, 1851, to 31st July following.

For two years previous to, and up to, the said 25th March, he had resided in a house without the ancient, but within the limits as extended by the above-mentioned Act.

The house so situate was within seven miles of the polling place of the borough (*a*).

The revising barrister having held the objection good,

The court reversed the decision: *Jarris v. Peele*, 11 C. B. 15.

*Right of voting as freemen by birth, not restricted to freemen whose fathers were admitted before 1st March, 1831; but is preserved continuously to all lineal descendants of freemen admitted prior to that date.*

BOROUGH OF BARNSTAPLE. It is provided by section 32 of 2 Will. IV. c. 45, "that no person shall be so entitled (*i.e.*, to vote) as a burgess or freeman in respect of birth unless his right be originally derived from or through some person who was a burgess or freeman, or entitled to be admitted a burgess or freeman previously to the first day of March, 1831."

In the borough of B. there was a body of freemen. The sons of these freemen were entitled, on proving their fathers' marriage, that they were born of that marriage, and that they had attained the age of twenty-one years, to be admitted as freemen.

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(*a*) It does not appear clear what point the revising barrister intended to reserve, but, at all events, he seems by his concluding statement in the case to have stated the objector out of court.

S. was duly admitted a freeman (by right of birth from his father) on 31st July, 1856.

His father was admitted (also by right of birth) on 2nd May, 1831, having only come of age on the preceding 4th April.

The grandfather was admitted (by right of birth) on 14th October, 1810.

Held, that S. was entitled to be registered as being a freeman whose "right was originally derived from or through some person who was a freeman previously to the first day of March, 1831"—namely, his grandfather: *Gaydon v. Bencraft*, 18 C. B., N. S. 11; H. & P. 97; 34 L. J. C. P. 53; 10 Jur., N. S. 1206; 13 W. R. 267; 11 L. T., N. S. 483.

*Residentiary canons of Exeter Cathedral hold their dwellings, each as a corporation sole, and not as a member of the Chapter, and are, consequently, entitled to city votes as freeholders in respect of them.*

CITY OF EXETER. The respondent was on the list of freeholders.

He was one of the residentiary canons of Exeter Cathedral, and his qualifying property was the residentiary house belonging to him in respect of his canonry.

The dean and chapter of Exeter are a corporation aggregate.

The canons are appointed for life.

Each canon on his election produces the key of the house occupied by his predecessor, and prays to be admitted. As one of the canons he is elected and decreed to be installed, and thereupon takes possession of his house, which he repairs at his own expense, and with his enjoyment of which the Chapter as a body cannot interfere.

Held, that the proper inference from the above

facts was, that the respondent held his house as a corporation sole, and not as a member of a corporation aggregate, and, consequently, that he was entitled to vote for the city as a freeholder under 2 Will. IV. c. 45, s. 31: *Ford v. Harrington*, L. R. 5 C. P. 282; 1 H. & C. 331; 39 L. J. C. P. 167; 18 W. R. 289; 21 L. T., N. S. 609.

*An officer in the army does not acquire a freeman's residentiary qualification by having a home within seven miles of the borough, unless he has actually resided there during the whole of requisite period, for, being subject to the rules of the service, he cannot go home whenever he pleases.*

CITY OF EXETER. The respondent (a freeman of the city of Exeter) was, and had been for several years, an officer in the army, and, except when on leave of absence, was stationed with his regiment more than seven miles from the city of Exeter. When on leave, as he usually was for three months in the year, he lived at the house of his mother, within seven miles of the city of Exeter. Two rooms in his mother's house (one of them a bedroom) were always reserved for the respondent's exclusive use, and some of his clothes and other property remained therein while he was away with his regiment.

Although he had his mother's permission during the whole of the six months next before 31st July (*a*) preceding the revision, to occupy the rooms whenever he wished, he had, in fact, occupied them during three only of those months, when he was on leave.

The respondent was unmarried, and had no other home than his mother's house.

Held, that the respondent, being subject to the

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(*a*) See now, as to the requisite period of residence, section 7 of the Parliamentary and Municipal Registration Act, 1878.



will and pleasure of the Queen, and, consequently, not at liberty to return to his mother's house whenever he pleased, had not resided within the city of Exeter, or within seven miles thereof, so as to satisfy the requirements of 2 Will. IV. c. 45, s. 32: *Ford v. Hart*, L. R. 9 C. P. 273; 2 H. & C. 167; 43 L. J. C. P. 24; 22 W. R. 159; 29 L. T., N. S. 685.

*Condition of residence required by section 31 of Reform Act, 1832, may be satisfied by voter residing in the house of another as a guest.*

*Continuity of residence not necessarily broken by absence for a night.*

CITY OF EXETER. The appellant, on the list of freeholders, was objected to on the ground that he had not resided for six calendar months next previous to 31st July (a), 1877 (the year of the revision), within the borough, or within seven miles thereof, pursuant to 2 Will. IV. c. 45.

On 31st July, 1876, and from that date until 29th March, 1877, and again from 29th May, 1877, throughout the remainder of the qualifying period of residence, the appellant had a fixed home and residence within the borough. But during the two months intervening between the 29th of March, 1877, and the 29th of May, being without a home of his own, he lived and slept with his wife and child at his wife's mother's house, which was also within the borough. The appellant, his wife, and child exclusively occupied one sleeping apartment in the said house, but in the day time lived in other rooms therein, and occupied them in common with the appellant's mother-in-law. The appellant did not pay his mother-in-law for such use and occupation, but lived in the house as her guest.

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(a) See now, as to the requisite period of residence, section 7 of the Parliamentary and Municipal Registration Act, 1878.

The house was one of a number of almshouses, which were given by the trustees of the same to inhabitants of Exeter to be occupied rent free during the pleasure of the trustees.

The rules of the charity forbade any person to reside with an inmate, except by permission of the trustees, who had given no such permission to the appellant.

The appellant was, during his two months' sojourn at his mother-in-law's, absent one night in London on business; but, with that exception, lived and slept at his mother-in-law's house continuously during such period. His wife and child lived and slept there for the two months without interruption.

Held, that the residence required by section 31 (a) of 2 Will. IV. c. 45, need not be that of one occupying as owner or tenant; consequently, that the nature of the appellant's residence in the house occupied by his mother-in-law was such as to satisfy that section, notwithstanding his liability to removal by the trustees; also, that the continuity of his residence was not broken by his being absent on business for one night: *Beal v. Ford*, L. R. 3 C. P. D. 73; 2 H. & C. 374; 47 L. J. C. P. D. 56; 26 W. R. 146; 37 L. T., N. S. 408.

*Service under articles in London on the part of an inhabitant freeholder of Exeter during part of statutory period of residence, held to constitute a break of such freeholder's residence in Exeter so as to disqualify him as a voter for that city, inasmuch as he could not, consistently with his articles, go to his home in Exeter whenever he pleased.*

CITY AND COUNTY OF THE CITY OF EXETER. The respondent, a freeholder on Form D., list No. 2, was

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(a) The appeal was erroneously stated in the case to be founded on section 33. The reference should have been to section 31; see 2 H. & C. 374, *note*.

objected to on the ground that he had not resided for six calendar months next preceding 15th July, 1879, within the borough or within seven miles thereof, pursuant to 2 Will. IV. c. 45, s. 31.

For a long time previously to May, 1878, the respondent had continuously resided at his father's house, which was within seven miles of the city of Exeter, and a separate bed-room in the house had always been set apart for his exclusive use, with the right to use it whenever he thought fit, and he had always kept some of his clothes and other property in the room. In May, 1878, the respondent left his father's house and went to London for the sole purpose of completing a term of service under articles to a solicitor there, and, subject thereto, he always intended to and did continue his residence, with the right to the said bed-room, at his father's house.

In August, 1878, the respondent, with the permission of the solicitor to whom he was articulated, returned to his father's house, and there spent a three weeks' holiday, sleeping in the said bed-room during that time. He then went back to London under his articles, which expired on 20th January, 1879. On 23rd of the same month he returned to his father's house, and had resided there ever since.

Held, that the respondent could not, consistently with his articles, be deemed to have had either the liberty or intention to return to his father's house whenever he pleased, and therefore had not resided within the city of Exeter, or within seven miles thereof, so as to satisfy the requirements of 2 Will. IV. c. 45, s. 31: *Ford v. Drew*, L. R. 5 C. P. D. 59; 1 Colt. Reg. Cas. 1; 49 L. J. C. P. D. 172; 41 L. T., N. S. 478; 28 W. R. 137.

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BOROUGH FRANCHISE—LODGINGS (*a*).

*A lodger does not lose his qualification as such by reason of his having claimed to be rated.*

CITY OF LONDON. The appellant, who was the respondent in *Cuthbertson v. Hains*, L. R. 4 C. P. 525, claimed as a lodger in respect of his occupation as stated in that case, *post*.

The appellant had in due time claimed to be rated as for "part of a house;" there were no rates due in respect of the premises at the time of the claim (*b*).

The revising barrister held, that the appellant must, for the purposes of 30 & 31 Vict. c. 102, be deemed to have been rated to the relief of the poor in respect of the said premises from the period at which the rate had been made in respect of which he had claimed to be rated; and that, thenceforward, in consequence of such rating, he had not occupied the premises as a lodger, within the meaning of the Act, and he accordingly disallowed the claim.

The court reversed the decision (*c*): *Hains v. Cuthbertson*, L. R. 4 C. P. 528, *note*.

(*a*) See now the provisions of section 6 of the Parliamentary and Municipal Registration Act, 1878, as to "additional," "successive," and "joint occupation of," lodgings.

(*b*) This fact, although stated by the revising barrister in *Hains v. Cuthbertson* (not in *Cuthbertson v. Hains*, *post*), does not appear in the report.

(*c*) It will be observed that the court did not decide that the status of the appellant was that of a lodger within the Representation of the People Act, 1867, that question not having been submitted for their decision; see per BOVILL, C. J., in *Cross v. Alsop*, L. R. 6 C. P. 319. The simple point decided was, that the appellant, assuming him to be a lodger within the Act, had not become disentitled to be registered as such by reason of his having claimed to be rated.

*Members of Cambridge University, whether fellows, scholars, or undergraduates, held to have no votes for the town of Cambridge in respect of their college rooms.*

BOROUGH OF CAMBRIDGE. The appellants were on the list of claimants as lodgers.

Each appellant was a member of the University of Cambridge, and of some college therein, one being a fellow of his college, another a scholar, and the third an undergraduate (not a scholar).

Each appellant occupied separately, and as sole tenant, a set of rooms in his college, and paid for them (unfurnished) an annual rent of £10 or upwards.

Each set of rooms had a door into a common staircase, and each appellant had a key of the door of his rooms.

The rooms in each case formed part of the college buildings, which were approached from the street by an outer gate, and the master and fellows, or the master and senior fellows (as the case might be), had the regulating power as to the hour of closing the outer gate.

No set of rooms was, or could be by law, separately rated. See 19 & 20 Vict. c. 17 (The Cambridge Award Act, 1856), ss. 22 and 24.

Held, that each set of rooms, being so structurally separate as to constitute a "house," within *Cook v. Humber*, 11 C. B., N. S. 33, and *Henrette v. Booth*, 15 C. B., N. S. 500, was not converted by 30 & 31 Vict. c. 102, from a dwelling-house into "lodgings" by reason of its not being separately rated or separately rateable, and therefore the appellants were not qualified as "lodgers."

Held also, that even supposing the rooms in question were "lodgings," section 78 (a) of 2 Will. IV. c. 45, was by sections 56 and 59 of 30 & 31 Vict. c. 102, incorporated into the latter statute, so that

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(a) Repealed by section 15 of the Registration<sup>a</sup> Act, 1885.



the appellants were not entitled to vote for the town of Cambridge "in respect of the occupation of any chambers or premises in any of the colleges or halls of the University of Cambridge": *Peroune v. Peters*, *Barnes v. Peters*, *Bakewell v. Peters*, L. R. 4 C. P. 539; 1 H. & C. 251; 38 L. J. C. P. 266; 17 W. R. 970.

*Lodger vote may be acquired in respect of apartments rented by claimant, and occupied as a residence by his wife and family during the qualifying period, although he himself may have slept there once or twice a week only during that time, provided he was at liberty to sleep there whenever he pleased.*

**BOROUGH OF CHELSEA.** The appellant claimed in respect of lodgings at 17, Edge Terrace, Kensington. The appellant had taken the lodgings, and his wife and family had lived in them during the twelve months next before 31st July preceding the revision.

The appellant had slept there once or twice a week only during that period (*a*), under the following circumstances:

He was employed to look after a gentleman of intemperate habits, upon whom his friends deemed it necessary that some one should be in constant attendance in the day time.

With a view to this, and to enable the appellant to perform his duties thoroughly, the friends of the gentleman took lodgings for the appellant at 22, Porteus road, Maida Hill, that being the house in which the gentleman under his charge also lodged.

With the exception of the one or two nights in each week when the appellant slept at the lodgings in Edge Terrace, he slept at the lodgings so provided for him by his employers, although he was not bound by his agreement to do so.

Held, that the appellant had resided in the lodgings in Edge Terrace, within the meaning of

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(*a*) See now section 7 of the Parliamentary and Municipal Registration Act, 1878.

30 & 31 Vict. c. 102, s. 4, sub-s. 3, and was consequently entitled to vote: *Taylor v. St. Mary Abbots, Kensington*, L. R. 6 C. P. 309; 1 H. & C. 421; 40 L. J. C. P. 45; 19 W. R. 100; 23 L. T., N. S. 493.

*Continuous actual residence not necessary for a lodger vote.*

CITY OF WESTMINSTER. The appellant claimed in 1870 as a lodger in respect of rooms in Charles street, Berkeley square.

From a date prior to 31st July, 1869, he had been, and still was, a yearly tenant of the rooms in question, which he had occupied separately, and as sole tenant, for the twelve months immediately preceding 31st July (a), 1870; but he had during that period also occupied a house in the country, where he kept an establishment of servants all the year round, and where he himself resided when not in London.

He had resided in the lodgings during the following periods in the qualifying year:—

In 1869, from 24th till 28th September, and from 10th till 15th November; in 1870, from 23rd April till 21st May, from 26th till 31st May, from 9th till 23rd June, and from 27th June till 4th July.

Held, that the appellant's residence in the lodgings was sufficient to give him a vote (b): *Bond v. St. George's, Hanover Square*, L. R. 6 C. P. 312; 1 H. & C. 427; 40 L. J. C. P. 47; 19 W. R. 101; 23 L. T., N. S. 494.

(a) See now section 7 of the Parliamentary and Municipal Registration Act, 1878.

(b) BRETT, J., in delivering his judgment, cited approvingly the following statement of the law:—

“In order to constitute residence, a party must possess, at the least, a sleeping apartment; but an uninterrupted abiding at such dwelling is not requisite. Absence, no matter how long, if there be the liberty of returning at any time, and no abandonment of the intention to return whenever it may suit the party's pleasure or convenience so to do, will not prevent a constructive legal residence.” Elliott on Registration and Qualifications, 2nd edition, p. 204.

*The declaration of a lodger claimant annexed to his notice of claim is primâ facie evidence of his qualification not only in the case of lodgers who, being on the existing register, claim again in respect of the same lodgings under section 22 of 41 & 42 Vict. c. 26, but also in the case of lodgers claiming for the first time under section 4 of 30 & 31 Vict. c. 102.*

BOROUGH OF MARYLEBONE. N. claimed under section 4 of the Representation of the People Act, 1867 (30 & 31 Vict. c. 102), to have his name inserted in the list of voters as a lodger.

The notice of claim which, with the accompanying declarations, was in the form H., No. 2, in the schedule to the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), as adapted to the case of a new lodger claimant, was dated the 9th of August, 1881, and was duly witnessed and published.

N. did not appear personally in support of his claim, nor was any evidence tendered on his behalf in support of it.

There was no opposition to the claim under section 39 of the Parliamentary Registration Act, 1843 (6 Vict. c. 18).

It was contended on N.'s behalf that section 23 of 41 & 42 Vict. c. 26 applies to all lodger claimants, not only to those who, being already on the list of voters in respect of lodgings, claim in respect of the same lodgings under section 22 of 41 & 42 Vict. c. 26, but also to those claiming for the first time under section 4 of 30 & 31 Vict. c. 102, and that N. was consequently entitled to have his claim allowed without any evidence being adduced in support of it in addition to that furnished by his declaration annexed to his notice of claim.

The revising barrister decided that section 23 of 41 & 42 Vict. c. 26 did not apply to the case of persons claiming under section 4 of 30 & 31 Vict. c. 102, and who did not claim under section 22 of 41 & 42 Vict.

c. 26; and that it was necessary for a person claiming under section 4 of the former statute, whether his claim was opposed or not, to appear either personally or by his agent, and to produce evidence in support of his claim other than that (if any) afforded by his declaration, and the barrister accordingly disallowed N.'s claim.

The court (Q. B. D.) reversed the decision.

Leave to appeal having been granted under 44 & 45 Vict. c. 68,

The court, affirming the decision of the court below, held that, the terms of section 23 of 41 & 42 Vict. c. 26 being general, and there being no other section in the Act limiting the operation of that section, it is not restricted in its application, so as to apply only to lodgers on the existing register claiming again in respect of the same lodgings, but applies also to lodgers claiming for the first time under section 4 of 30 & 31 Vict. c. 102, and consequently that, N.'s declaration annexed to his notice of claim being *prima facie* evidence of his qualification, his claim should, in the absence of rebutting evidence, have been allowed at the revision (a): *Nuth v. Tamplin*, L. R. 8 Q. B. D. 247; 1 Colt. Reg. Cas. 249; 51 L. J. Q. B. D. 177; 30 W. R. 346.

(a) This decision puts an end to the doubt which had arisen in consequence of an opinion expressed by Lord COLERIDGE, C.J., and DENMAN, J., in *Pickard v. Baylis*, L. R. 5 C. P. D. 235, to the effect that section 23 of 41 & 42 Vict. c. 26 is confined to the claims of *old* lodgers.

It seems to be the duty of the revising barrister, by virtue of the decision in the principal case, to allow without inquiry (at least where no suspicion of fraud or falsehood attaches to the declarations or the signatures thereto) all unopposed lodger claims, provided that the notices of claim be correct in form. If, however, a lodger-claim be defective by reason of the omission of any particular required by form H., No. 2, in the schedule of 41 & 42 Vict. c. 26, to be inserted therein, the barrister will exercise his discretion as to the allowance (with amendment), or rejection, of the claim, for such particulars form no part of the qualification, and are therefore not affected by section 23 of the statute. See per LINDLEY, J., in *Pickard v. Baylis*, L. R. 5 C. P. D., on p. 247; Colt. Reg. Cas., on p. 116.

*Notice of claim to be registered, a part of lodger's qualification to vote.*

*Neglect to give such notice cannot be waived by overseers publishing name in list of lodgers.*

[*Davies v. Hopkins* (3 C. B., N. S. 376) distinguished.]

BOROUGH OF ST. PANCRAS (SOUTH DIVISION).  
The name of William Henry Humphrey appeared on the old lodgers' list, and was objected to on the ground that he had not claimed to be registered in manner provided by section 22 of 41 & 42 Vict. c. 26.

The said W. H. Humphrey was on the old lodgers' list for 1885. He made no claim of any kind to be registered for 1886: but the overseers, instead of causing the old lodgers' list for that year to be printed *de novo* from the claims served upon them, caused it to be printed from a copy of the old lodgers' list in the then current register, from which they intended to expunge the names of the voters from whom no claims had been received. The overseers had, however, omitted to expunge the name of the said W. H. Humphrey, and failed to discover the mistake before the list had been signed and published. The revising barrister held that the old lodgers' list being, by virtue of section 22 of 41 & 42 Vict. c. 26, to be deemed a list of voters, it was thereby brought within the principle of *Davies v. Hopkins* (3 C. B., N. S. 376), and *Leonard v. Alloways* (2 H. & C. 411), and that he could not therefore go behind the published list in the case of an old lodger, and require proof that he had made a claim.

The revising barrister accordingly rejected the evidence, and retained the name of the said W. H. Humphrey on the old lodgers' list.



The court, reversing the decision, held that to have claimed to be registered is a necessary constituent of the qualification of a lodger, whether old or new; and that the necessity for so claiming cannot be waived by the overseers' publication of a name in a lodgers' list: *Hersant v. Halse*, L. R. 18 Q. B. D. 412; 56 L. J. Q. B. D. 44; 1 Scott Fox's Reg. Cas. 12; 56 L. T., N. S. 337.

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## OCCUPATION FRANCHISE UNDER 48 VICT. c. 3.

*Non-commissioned officers occupying rooms in the cavalry barracks, Canterbury, held, in respect of such occupation to be inhabitant occupiers of dwelling-houses within section 3 of the Representation of the People Act, 1884.*

CITY OF CANTERBURY. Objection was made to the retention of the appellant's name on the list of occupation voters on the ground that his occupation was not as owner or tenant.

The entry on the list was as follows:—

|                 |           |                |           |
|-----------------|-----------|----------------|-----------|
| Atkinson, John. | Barracks. | Part of house. | Barracks. |
|-----------------|-----------|----------------|-----------|

The appellant was a sergeant in the 7th Dragoon Guards, the depôt of which was attached to the cavalry depôt at Canterbury.

As such sergeant he inhabited, by virtue of his service in the army, two rooms in a block of buildings in the cavalry barracks, and had inhabited the same two rooms for the qualifying period. The said rooms were used by him as a bed-room and sitting-room respectively. A portion of the furniture was supplied by the government, and not allowed to be removed by the appellant; the remainder was supplied by the appellant himself.

The appellant's rooms opened into a passage used in common by himself and other non-commissioned officers, the passage communicating with a staircase, and that again with a passage on the ground floor, which led to the front door. No one had a key of the rooms but the appellant. The appellant was

obliged to be in his quarters by a stated hour every evening. The Queen's regulations and certain standing orders of the commanding officer required that the medical officer should inspect the appellant's quarters as well as all other portions of the barracks every week, and report as to the condition thereof. It was the duty of the orderly officer and certain other officers to visit such quarters at stated times, and to report as to their order and condition, and such inspection did in fact from time to time take place, for which purpose the appellant, on receiving notice, was bound to admit such officers to his quarters, and they would have power, if refused admittance, to break open the doors and enter.

Non-commissioned officers of superior rank to the appellant lived in the same block. It was the duty of the senior non-commissioned officer for the time being in each block, in case of need, to maintain order, and in case the appellant should be disorderly, it would be the duty of such senior non-commissioned officer, for the time being, to enter the appellant's room to enforce order.

The colonel commanding the whole of the dépôt lived in a detached house away from the block in which the appellant lived. The colonel's house was within the wall which extended round the barracks and barrack yards. The commanding officer could at any moment enter any part of the barracks (including the appellant's rooms) for any cause which might seem to him reasonable; and he further had the power of closing the barrack gates, and forbidding any person to enter or leave the barracks at any time.

The appellant was liable at any time to be ordered by the commanding officer to move to other quarters, and would be bound to obey such order. The revising barrister expunged the name of the appellant, and the names of twenty-eight other persons (whose appeals were consolidated with this), holding that their occupation had not been of such a separate

and exclusive nature as to constitute any one of them a person deemed to be an inhabitant occupier of a dwelling-house as tenant within the meaning of section 3 of the Representation of the People Act, 1884.

The court reversed the decision: *Atkinson v. Collard*, L. R. 16 Q. B. D. 254; 1 Colt. Reg. Cas. 375; 55 L. J. Q. B. D. 18; 53 L. T., N. S. 670; 34 W. R. 75.

The judgment of the court (delivered by Cave, J.), was as follows:—

“The appellant in the case of *Atkinson v. Collard* is a sergeant in the army, and he claims the vote as having inhabited a dwelling-house by virtue of his service within the meaning of the 3rd section of the Representation of the People Act, 1884.

“It was objected that this section does not apply to service in the army, because the crown is not bound by a statute unless named in it. How the rights, prerogatives, or property of the crown are affected by soldiers having votes we cannot see; but it is enough to say that the crown is named in the statute, as we shall show presently.

“Next it was said that it was contrary to public policy that soldiers should have votes. No authority was cited for this proposition. On the contrary, soldiers have always, in respect of the franchise, been treated on the same footing as civilians.

“By 8 Geo. II. c. 30, which provides for the removal of soldiers from the vicinity of an election, it is enacted that nothing in the Act contained shall extend to any officer or soldier who shall have a right to vote at any such election, but that every such officer and soldier may freely, and without interruption, attend and give his vote at such election. A similar provision is to be found in 10 Vict. c. 21. It is true that by 22 Geo. III. c. 41, and 8 Geo. IV. c. 53, s. 9, officers of excise and customs and persons engaged in the post office were disqualified from voting; but these disqualifications were finally removed by 31 & 32 Vict. c. 73, which

recites that it is inexpedient that any person, otherwise entitled to be registered as a voter, should be incapacitated to vote at the election of a member or members to serve in Parliament by reason of his being employed in the collection or management of her Majesty's revenues.

"The question, moreover, is put beyond all doubt by the 9th section of the Representation of the People Act, 1884, sub-s. 9, which provides that 'where a man inhabits a dwelling-house, in respect of which no person is rated by reason of such dwelling-house belonging to or being occupied on behalf of the crown, or by reason of any other ground of exemption, such person shall not be disentitled to be registered as a voter, &c.' Now a dwelling-house can only be occupied on behalf of the crown by a servant of the crown, or at any rate by some one who is regarded as being *in consimili casu* with a servant of the crown, so that this provision is a clear indication that servants of the crown are intended to be included within the Act. The other objections made against the vote were of a more special character. The word 'inhabit' simply means to dwell in, and there can be no doubt that the appellant inhabits the two rooms in question. It admits of as little doubt that they form a dwelling-house.

"By section 5 of the Registration Act of 1878, the term 'dwelling-house' is to include any part of a house where that part is separately occupied as a dwelling; and it is also provided that 'where an occupier is entitled to the sole and exclusive use of any part of a house, that part of the house shall not be deemed to be occupied otherwise than separately by reason only that the occupier is entitled to the joint use of some other part.' Now the two rooms in question are either themselves a dwelling-house, or they are part of a dwelling-house, and in the latter case, as they are separately occupied as a dwelling, they form a dwelling-house within that section.



“A servant does not the less inhabit a dwelling-house, nor is it the less a dwelling-house because the master makes and enforces regulations for the good government of the servant and of his house; nor does the fact that the master retains himself or delegates to others the power of entering a servant's house for the purpose of maintaining order prevent the servant from having the sole and exclusive use of the house. The next objection is that the dwelling-house was inhabited by a person under whom the appellant served. Now it is obvious that this part of the section cannot apply where the master and servant occupy separate and distinct houses; and, as where the servant inhabits part of a house he must have the sole and exclusive use of that part, this clause can only apply where the servant inhabits part of a house, and the master inhabits the house of a part of which the servant has the sole and exclusive use. Thus, where a butler has the sole and exclusive use of a bedroom in his master's house, it is clear that the dwelling-house is inhabited by the person under whom the butler serves; and where a gate-keeper has the sole and exclusive use of a cottage at the gate of his master's park, it is equally clear that the dwelling-house is not inhabited by the person under whom he serves.

“In the present case the appellant inhabits two rooms in a block of buildings, and there are other rooms in the same block inhabited by other non-commissioned officers, some of them of superior rank to himself. Now it appears impossible to contend that the appellant inhabits the whole block as a dwelling-house; and, if he inhabits his own two rooms only, it must follow that the other non-commissioned officers do the same, and consequently that the officer of highest rank also only inhabits his own rooms. If this is not so, either every person in the block must inhabit the whole block, which is absurd,

or else, when the officer of highest rank goes away, the next officer immediately and by virtue of his superior rank at once begins to inhabit the whole block, having previously inhabited only his own two rooms. In truth, the senior non-commissioned officer occupies his own two rooms and those only, and cannot inhabit rooms which he does not in fact occupy either by himself or his servants, although undoubtedly the converse does not hold, and a man may occupy what he does not inhabit. In our judgment there is no dwelling-house here of which the appellant occupies a part and the senior non-commissioned officer the whole. Moreover, we think that the appellant in this case does not serve under the senior non-commissioned officer. It is not necessary to decide whether a private soldier serves under the captain of his troop or company, or a captain under the colonel of his regiment. A soldier does not serve under everyone of superior rank to himself in the same regiment, and there are no facts stated in the case which warrant the conclusion that the appellant served under anybody who inhabited any rooms in the same block of buildings.

“These considerations dispose of most of the cases relating to non-commissioned officers and married men.

“In the case of *Lowry v. Collard* it was contended that the appellant, in that case a captain, could not have a vote because an officer of superior rank—a major—had quarters in the same block of buildings. This case, however, is not substantially different from that of *Atkinson v. Collard*, and we think the same considerations apply. The major did not in fact, or constructively, inhabit the whole block, but only his own quarters, and moreover is not a person under whom Captain Lowry served in his office or employment.”

The above judgment applies to the following

cases in addition to those reported *post*, on pp. 190—203:—

*Moffit v. Collard* (from the city of Canterbury);  
*O'Sullivan v. Collard* (ditto);  
*Donoghue v. Byrne* (from Warrington);  
*Donoghue v. Ritchie* (ditto);  
*Ford v. Pardoe* (from the city of Exeter);  
*Ford v. Smerdon* (ditto);  
*McGowan v. Coleman* (from Pontefract);  
*O'Flaherty v. Chambers* (from Maidstone);  
*Stothard v. Purcell* (from the Holderness division of the East Riding of Yorkshire);  
*Tilston v. Bott* (from Wrexham);  
*Sedgwick v. Neville* (from the Lichfield division of Staffordshire).

*A captain in the King's Dragoon Guards occupying, by virtue of military service, a room in a block of buildings, called the officers' quarters in the cavalry barracks, Canterbury, held, in respect of such occupation, to be an inhabitant occupier of a dwelling-house within section 3 of the Representation of the People Act, 1884, although a superior officer occupied quarters in the same block.*

CITY OF CANTERBURY. The appellant was a captain in the King's Dragoon Guards, and commanded the troop of his regiment attached to the cavalry depôt at Canterbury. He had occupied during the qualifying period a room in a block of buildings called the "officers' quarters" in the cavalry barracks. Another officer, Major Hickman, occupied similar quarters in the same block, and was the senior officer occupying quarters in such block. The facts did not differ substantially from those in the preceding case (*Atkinson v. Collard*), but the revising barrister had here found that the appellant had occupied his room under such circumstances as to constitute the inhabitancy of a dwelling-house by virtue of service in the army.

The revising barrister, however, expunged the appellant's name on the ground, first, that the barracks as a whole must be taken to be the dwelling-house mentioned in the proviso or second part of the third section of the Representation of the People Act, 1884, and must be taken to be inhabited by a person under whom the appellant served, viz., the colonel commanding the cavalry depôt, or, secondly, that if the particular block of buildings in which the appellant's quarters were situated, was to be taken to be the "dwelling-house" in the said proviso mentioned, then the said block was inhabited by a person under whom the appellant served, viz., Major Hickman.

The court reversed the decision: *Lowry v. Collard* [included in the judgment in *Atkinson v. Collard*, 1 Colt. Reg. Cas. 391—395, ante, pp. 186—189].

*Acting quarter-master sergeants in the musketry depôt, Gravesend, occupying rooms in the Milton Barracks, held, in respect of such occupation, to be inhabitant occupiers of dwelling-houses within section 3 of the Representation of the People Act, 1884.*

BOROUGH OF GRAVESEND. The respondent objected to the name of the appellant being retained in division II. of the list of occupation voters, on the ground that he had not occupied a dwelling-house as tenant for the qualifying period.

The entry in the list was as follows :—

|                      |                  |                     |   |
|----------------------|------------------|---------------------|---|
| McQuillan,<br>James. | Milton Barracks. | Dwelling-<br>house. | Acting Quarter-<br>master Sergeants'<br>Quarters, Milton<br>Barracks. |
|----------------------|------------------|---------------------|---|

The appellant was an acting quarter-master sergeant in the musketry depôt, Gravesend, and by virtue of his service under the Queen had occupied for the prescribed period a house or cottage within the Milton Barracks. This house or cottage was one

of a block of houses or cottages which were set apart for the occupation of the married men as their quarters, and the said house was marked "acting quartermaster sergeants' quarters." If the appellant had not been in barracks, he would have received an allowance as lodging money.

There was no internal communication between the appellant's house and the houses on either side of it. No one dwelt in the appellant's house except himself and family. The appellant had his meals in the said house. The keys of the said house (of which keys there were no duplicates) were kept by the appellant, and when on leave he was entitled to take the keys with him. The appellant was not allowed to make any alterations in the rooms or buildings occupied by him. A certain amount of furniture was allowed the appellant in his said house, the amount of the furniture so allowed being regulated in accordance with the Queen's regulations. The appellant was not allowed to remove any part of such regulation furniture from his house. With the above exception, all the furniture in the appellant's house was the property of the appellant. An inspection of the regulation furniture was made from time to time by the proper officer, who was empowered by the Queen's regulations to enter the appellant's room for the purpose. The appellant would be charged with the value of any regulation furniture that might be found on such inspection to be damaged or missing. The appellant was by special pass allowed out of barracks until 12 o'clock at night, by which time he was bound to be inside the gates, but if he presented himself at the barrack gates after hours, the non-commissioned officer on duty at the gate would be bound to admit him. Between tattoo and reveille, no non-commissioned officer or private was allowed out of barracks without a special pass. It was the duty of the medical officer to inspect the appellant's house at least once a week. But such officer might make a more frequent



inspection if, and when, he might think it desirable to do so. Upon the medical officer giving notice to the appellant of his intention to enter the appellant's house, the appellant was bound to admit him. If admission were refused, the medical officer would report the fact to the commanding officer, who would order the door to be broken open.

The commanding officer in charge of the barracks did not for any portion of the prescribed period live inside the barracks, the senior officer who lived in the barracks was a major, who occupied a set of rooms therein. The commanding officer in charge of the barracks had the power of entering the appellant's house at any time for the purpose of inspecting the same or for any other cause that he might think reasonable. The appellant was bound to admit the commanding officer into his (the appellant's) house upon request, and if admission was refused the commanding officer had the power to order the door to be broken open.

The commanding officer had the power for any cause that he might think reasonable, to forbid any particular person or persons from entering the appellant's house, and he could exercise a discretion as to what persons he allowed therein, though he would be responsible to a superior authority for an abuse of such power.

If the appellant was guilty of improper conduct in his house, the commanding officer could order the military police to enter the house and arrest the appellant, and the military police would be entitled to break open the door for the purpose.

The commanding officer could not while the appellant held the post of acting quarter-master sergeant, shift his quarters because there were no other quarters in the barracks assigned to the acting quarter-master sergeant, but, assuming he had not been in the position of acting quarter-master sergeant, the commanding officer would have had the power of moving him to other quarters at any time, and in the event of his being ordered to shift to other quarters

of a like nature to those occupied by him, he would have had no option but to obey.

The commanding officer further had the power to close the barracks at any time and to forbid strangers to enter the gates thereof if he thought in the interests of the service that it was advisable to do so.

The revising barrister held that the occupation by the appellant and by eleven other persons (who were objected to under similar circumstances, and whose names and qualifications were in a schedule attached to the special case) had not been of such a separate and exclusive nature as was necessary to constitute him or any of them an inhabitant occupier of a dwelling-house within the meaning of section 3 of the Representation of the People Act, 1884, or the Representation of the People Acts, he therefore expunged the names from the list.

The court reversed the decision: *McQuillan v. Solomon* [included in the judgment in *Atkinson v. Collard*, 1 Colt. Reg. Cas. 391—395, *ante*, pp. 186—189].

*Sergeants in the Royal Marines occupying rooms in the Marine Barracks, Chatham, held, in respect of such occupation, to be inhabitant occupiers of dwelling-houses within section 3 of the Representation of the People Act, 1884.*

BOROUGH OF CHATHAM. The retention of the name of the appellant on the list of occupation voters was objected to on the ground that his occupation was such as not to confer a vote.

The entry on the list was as follows:—

|                  |  |                  |  |        |  |                  |
|------------------|--|------------------|--|--------|--|------------------|
| Herbert, Joseph. |  | Marine Barracks, |  | House. |  | Marine Barracks. |
|                  |  | Chatham.         |  |        |  |                  |

The appellant was an unmarried sergeant in the Royal Marines. He occupied one room in a block of houses in the barracks, which room was used by

him as a sitting-room and a bedroom, but he did not mess in the said room.

The house in which the appellant's room was situate consisted of four stories, the ground floor, in which the appellant's room was, contained five rooms and a passage. Two of these rooms were situate on one side of the passage, which ran down the middle of the building from the outer door to the door of the appellant's room, which was situate at the end of the said passage, opposite to the outer door. The two other rooms were situate at the other side of the passage, opposite the two already mentioned, and the appellant's room was situate at the end of the block. The four rooms other than the appellant's (the doors of which opened directly on to the passage) were each occupied by several privates in the Marines. The appellant's room was occupied by himself alone, and he had the control over the whole of said floor. There was a staircase leading from this floor to the floors above, which floors were of the same description and tenanted in the same manner as hereinbefore mentioned, a sergeant occupying a room in each of the floors, and having control over the floor in which his room was situate, but no one of superior rank occupied the house in which the appellant lived.

There was no entrance into the appellant's room except through the outer door, and along the passage to the door of the appellant's room. The outer door was always kept open. The appellant had the key of the door of his room, and no duplicate of such key was kept, but if the appellant went on leave for more than twenty-four hours, he would be obliged to leave his key behind him with the proper authority. The commanding officer inhabited a house inside the barracks.

A certain amount of furniture, consisting of a bed and other necessities, was in accordance with the rules of the service, allowed the appellant in his said room, and was used by him. He was not allowed

to remove any part of such regulation furniture from his room ; but he was allowed to have, and did have, additional furniture of his own there. The regulation furniture was inspected from time to time, and the appellant was chargeable with the value of any of it that was damaged or missing.

No private or non-commissioned officer was allowed out of barracks between tattoo and reveille without a special pass. The appellant was allowed out by a special pass up to 12 o'clock at night, but, assuming that he presented himself at the barrack-gates after hours, the non-commissioned officer stationed on duty at the gate would be bound to let him in.

It was the duty of the medical officer to inspect the appellant's room at least once a week, but such medical officer might enter the said room for that purpose more frequently, and indeed whenever he might think it desirable to do so ; and the appellant, on receiving notice from the medical officer, was bound to admit him.

The appellant's room was also liable to be inspected at any time by the commanding officer, and the appellant was bound to admit such officer into his (the appellant's) room upon request. If admission were refused, the commanding officer had the power to order the door to be broken open. The commanding officer might for just cause forbid any particular person or persons from entering the appellant's room.

If the appellant was guilty of riotous or improper conduct in his room, the commanding officer could order the military police to enter the room and arrest the appellant, and the military police would be entitled to break open the door for that purpose.

The commanding officer further had the power to change the appellant's quarters at any time for others of the same class ; also to close the barracks at any time and forbid strangers to enter the gates thereof if, and when, he thought in the interest of the service that it was advisable to do so.

The Queen's regulations and orders for the army, approved by her Majesty the Queen, and published at the Horse Guards War Office on the 10th of May, 1883, apply, so far as matters of discipline are concerned, to the Royal Marines.

The revising barrister held that the occupation by the appellant and by thirty-six other persons (who were objected to under similar circumstances, and whose names and qualifications were set out in a schedule attached to the special case) had not been of such a separate and exclusive nature as was necessary to constitute him or any of them an inhabitant occupier of a dwelling-house within the meaning of section 3 of the Representation of the People Act, 1884, or the Representation of the People Acts. He therefore expunged the names from the list.

The court reversed the decision: *Herbert v. Chatham* [included in the judgment in *Atkinson v. Collard*, 1 Colt. Reg. Cas. 391—395, *ante*, pp. 186—189].

*Non-commissioned officers and privates occupying rooms in the Winchester Barracks held, in respect of such occupation, to be inhabitant occupiers of dwelling-houses within section 3 of the Representation of the People Act, 1884.*

CITY OF WINCHESTER. The appellant and sixty-eight other persons (whose names and qualifications were contained in a schedule attached to the special case) were objected to on the ground (*inter alia*) that they were not entitled to be registered each as an inhabitant occupier of a dwelling-house under 48 Vict. c. 3, s. 3.

The sixty-nine voters in question were all non-commissioned officers or privates in the army, and each of them (except such as were married) had been the sole occupant of separate and the same quarters in Winchester Barracks for the requisite period of qualification.

In the case of those who were married, each of



whom had likewise occupied separate and the same quarters for the qualifying period, no persons other than their wives and children had been also inmates of such quarters.

The separate quarters of married men consisted of two rooms ; those of the unmarried of a single room only. Such rooms in each case opened on to a common staircase which communicated with the barrack yard. At the foot of some of such staircases there were doors opening into the yard, which doors, however, were never closed. The other staircases had no doors at the foot, and resembled the staircases in the Temple. Each separate quarter was entirely distinct from any other separate quarter, there being no communication whatever between the separate quarters except by means of the common staircase. No rent was paid by anyone for separate quarters.

The barracks were in the hands of the commissariat department, of which there was a branch at Winchester, and there the keys of all vacant quarters were kept. When troops came into barracks a quarter-master or quarter-master sergeant got from the commissariat the keys of as many separate quarters as were required, and he allotted the rooms, and handed to the occupants the keys, which they retained as long as they occupied.

Every soldier whether married or not had to answer the roll call. All separate quarters were liable to be inspected for the purpose of ascertaining their condition as regards repair and cleanliness and in the event of offences against discipline.

The commanding officer could change a man's separate quarters, and had power to confine the whole of a corps to barracks if necessary.

The barracks were surrounded by walls in which were gates communicating with the public street. These gates were locked at 10 p.m., and sentries were put over them. Unless they had leave, neither non-commissioned officers nor privates were allowed to be out of barracks after the gates were locked, and no non-commissioned officer or private could be out of

barracks after his time of leave had expired without being "absent" and guilty of a military offence.

Privates had to put out their lights at 10.15 p.m. Sergeant-majors, sergeants, and other non-commissioned officers were allowed lights till a later hour, according to the time when their leave expired. Leave was granted to all sergeants, but such leave might be cancelled or rescinded. Two or three pickets went out every night to pick up non-commissioned officers or privates who might be drunk or disorderly, or out without leave.

No man was locked into his quarters at any time, but it was the duty of the sentries to challenge any non-commissioned officer or private coming out of quarters into the barrack yard at night, and if necessary to detain the man, and call the sergeant of the guard.

The revising barrister decided that the above-mentioned system of control and restriction was inconsistent with the ordinary incidents of tenancy and disentitled the voters in question to be registered as inhabitant occupiers of dwelling-houses within the meaning of section 3 of the Representation of the People Act, 1884. He accordingly expunged the names of the said sixty-nine persons from the list of voters.

The court reversed the decision: *Boxall v. Bailey* [included in the judgment in *Atkinson v. Collard*, 1 Colt. Reg. Cas. 391—395, *ante*, pp. 186—189].

*Officers and non-commissioned officers occupying rooms in the Copthorne Barracks, Shrewsbury, held, in respect of such occupation, to be inhabitant occupiers of dwelling-houses within section 3 of the Representation of the People Act, 1884.*

BOROUGH OF SHREWSBURY. The following persons claimed to have their names inserted in the list of

**Inhabitant Householders :—**George Newton Fendall, William Francis Annesley Wallace, Claude George Henry Sitwell, James Wylie, Peter Murphy and Thomas Mara. Each claim stated the place of abode of the claimant to be “The Barracks, Copthorne,” the nature of qualification, “dwelling-house (service),” and the name and situation of the qualifying property, “The Barracks, Copthorne.”

The claimants were officers and non-commissioned officers of the 53rd regimental district and were stationed in, and inhabited, the Copthorne Barracks in the Borough of Shrewsbury. The barracks consisted of several blocks of buildings surrounded by an enclosure wall. One of the blocks was named the “officers’ quarters,” another the quarter-master’s house, another the “married quarters,” another “McLeod’s block,” &c. Each block was separate and detached from the other blocks.

*Colonel Fendall’s claim.*—The claimant was the colonel in command of the 53rd regimental district and of the barracks, and was the officer of the highest rank therein. He lived in, and had the sole and exclusive use of certain rooms in the “officers’ quarters” block. No one had a right to enter them without his permission.

*Lieutenant Wallace’s claim.*—The claimant was a lieutenant and adjutant. He lived in, and occupied and had the sole and exclusive use of, a bed-room, sitting-room, and kitchen, in the “officers’ quarters” block. All the furniture of his rooms was provided by him. His rooms were separate and distinct from those of the colonel and at the other end of the block, and had an outer door opening into a passage. The claimant had keys of that door. The colonel had no key of it nor, as the claimant said, any right to visit the rooms, or to turn him (the claimant) out of them. He said in evidence that in his opinion the colonel was not justified in entering the rooms even to suppress any disorder there, and that he had no more right of entry than that of a police officer to

enter a private house. But the colonel could arrest the claimant.

*Lieutenant Sitwell's claim.*—The claimant was a lieutenant who occupied other rooms in the “officers’ quarters,” and whose case was identical with that of Lieutenant Wallace.

*Quarter-master Wyllie's claim.*—The claimant with his wife lived in a distinct house with a railing round it in the barracks. He occupied the whole house, and had the same exclusive right as that which the lieutenants had to their respective quarters.

*Sergeant-Major Murphy's claim.*—The claimant was a warrant officer, that is to say, a non-commissioned officer of superior grade. He lived with his wife and four children in the “married quarters” block, and occupied and had the sole and exclusive use of, six rooms therein. There was a separate entrance and passage exclusively for his use from the barrack yard into his rooms. It was not possible to pass by that entrance or passage into any other quarters in the block. About thirty non-commissioned officers also had quarters in the “married quarters” block. The colonel gave previous written notice to the claimant of any visit by the colonel to the claimant's rooms. There was no periodical visitation of them by the colonel, but he could visit them when he liked, and the claimant would not exclude him. The other officers had not, as far as the claimant knew, any right to enter his rooms unless to give orders, and when any officer came to the rooms he knocked at the door and waited until it was opened.

*Sergeant Mara's claim.*—The claimant was a sergeant. He was a single man. He lived in “McLeod's Block,” and occupied one room on the second story upstairs, which room formed his bedroom and sitting-room. He had the sole and exclusive use of this room, and had the key of it. Some of the furniture in the room was supplied by the government, and some belonged to the claimant.

He had not his meals in the room but had them at mess. The orderly officer might visit the room when he liked to see if it was clean, and that no improper use was made of it. The claimant was allowed by the government a room to himself because he held the rank of sergeant. About fifty soldiers lived in the "McLeod's Block" which contained four barrack rooms, each of which was a sleeping place intended for twenty-eight men. This block and others like it were each in charge of a non-commissioned officer.

The non-commissioned officer in charge of the block supervised it. Different non-commissioned officers looked after each such block.

Most of the claimants had lived in the respective premises for several years. If they did not live in the barracks an allowance, in addition to their pay, would be made to them for quarters elsewhere.

The revising barrister decided that the barracks did not form one dwelling-house only, but consisted of a number of dwelling-houses. That the quartermaster's house was one separate dwelling-house of which the claimant, Wylie, was alone the "inhabitant occupier," and that the respective rooms or "quarters" occupied solely by each claimant respectively, were in each case part of a house separately occupied as a dwelling, and, therefore, by 41 & 42 Vict. c. 26, s. 5, included in the term "dwelling-house" for the purposes of the Representation of People Act, 1867, and a "dwelling-house" within 48 Vict. c. 3, s. 3, by the effect of section 11 of that Act. That inasmuch as such part so being a "dwelling-house" was in each case "inhabited" by the claimant, and was "not inhabited by any person under whom such man served," he should be deemed to be an "inhabitant occupier of such dwelling-house as tenant," and that a right of visitation and inspection even if possessed and exercised by a superior officer for the purposes of military discipline was not inconsistent with the claimant's right of occupation under 48 Vict. c. 3, or with his "sole and exclusive use" of the



dwelling-house within the meaning of 41 & 42 Vict. c. 26, s. 5. He accordingly allowed the claims.

The court affirmed the decision: *Roberts v. Murphy* [included in the judgment in *Atkinson v. Collard*, 1 Colt. Reg. Cas. 391—395, *ante*, pp. 186—189].

*Although actual inhabitancy during each day of the qualifying year is not required in order to satisfy the terms of section 3 of the Representation of the People Act, 1884, there must nevertheless be a constructive inhabitancy; but to make out constructive inhabitancy, voter must show that he had an intention to return after a temporary absence and a power of returning at any time without breach of any legal obligation.*

CITY OF EXETER. The respondent, whose name appeared on the list of parliamentary voters in respect of the occupation of a dwelling-house (described as “the Barracks, Topsham Road”), was objected to by the appellant, on the ground that the respondent had not himself occupied a dwelling-house during the whole of the qualifying period.

The respondent was a battery sergeant-major in the Royal Artillery, stationed at Topsham Barracks, Exeter. He was unmarried, but, being a staff-sergeant, he had the right to the exclusive use and occupation of one large room in the block of buildings known as the staff-sergeants’ quarters in Topsham Barracks. All the furniture in his quarters belonged to the respondent, with the exception of the fire-irons, bedstead and table.

The respondent was absent on duty at Okehampton for twenty-one days during the qualifying year, and could not return without leave, but during his absence he retained his room and kept his furniture in it, no other person using or occupying the room.

The revising barrister found as a fact that during the whole of the qualifying year the respondent had

himself separately occupied the same room as a dwelling by virtue of his office as a sergeant-major in her Majesty's army, and decided that the respondent was entitled to have his name retained on the list of voters as an inhabitant occupier of a dwelling-house by virtue of section 3 of the Representation of the People Act, 1884; and he accordingly retained the respondent's name on the list.

The court (reversing the decision) held, that although an actual inhabitancy during each day of the qualifying year is not required in order to satisfy the terms of section 3 of the Representation of the People Act, 1884, there must nevertheless be a constructive inhabitancy, but, to make out a constructive inhabitancy, the voter must show that he had an intention to return after a temporary absence, and a power of returning at any time without breach of any legal obligation, and that the respondent, having failed to show this, should have been expunged from the list of voters: *Ford v. Barnes*, L. R. 16 Q. B. D. 254; 1 Colt. Reg. Cas. 396; 55 L. J. Q. B. D. 24; 53 L. T., N. S. 675; 34 W. R. 78.

**CITY OF EXETER.** The respondent's case differed from the last preceding one (*Ford v. Barnes*) only in the following particulars:—

The respondent was a married man, and, as such, resided in the married quarters with his wife and family.

While the respondent was absent on duty at Okehampton his wife and family had the right to, and did, remain in and occupy his quarters during his absence.

In this case also, the revising barrister decided to retain the name of the respondent on the list, and his decision was reversed: *Ford v. Elmsley*, L. R. 16 Q. B. D. 258; 1 Colt. Reg. Cas. 397; 55 L. J. Q. B. D. 25.

[The case was argued with *Ford v. Barnes*, and the same judgment applies to both.]

*Where an industrial trainer of a workhouse, paid and employed by the poor law guardians, by whose permission he had, by virtue of his employment, the exclusive use and occupation of a bed-room and sitting-room in the workhouse as his dwelling, the guardians reserving another room in the house for their own use as a board-room, and the master of the workhouse (also paid and employed by the guardians) living in another part of the workhouse building, but without control over the industrial trainer, save by reporting him to the guardians for disobedience, held first, that the industrial trainer inhabited a "dwelling-house" by virtue of his employment within section 3 of the Representation of the People Act, 1884; secondly, that the workhouse was not inhabited by any person under whom the industrial trainer served, as neither the guardians nor the master inhabited the whole workhouse; and thirdly, that the industrial trainer did not serve under the master.*

CITY OF EXETER. The appellant, whose name was on the occupiers' list, was objected to on the ground that he had not occupied the qualifying property as owner or tenant.

The appellant's name appeared on the list in the following form:—

|              |  |                                 |  |                     |  |                     |
|--------------|--|---------------------------------|--|---------------------|--|---------------------|
| Adams, John. |  | Union workhouse,<br>Okehampton. |  | Dwelling-<br>house. |  | Okehampton<br>Road. |
|--------------|--|---------------------------------|--|---------------------|--|---------------------|

The appellant was an industrial trainer, appointed, paid, and employed by poor law guardians. As part of his salary, the appellant was allowed to have the exclusive use and occupation of two rooms, namely, a sitting-room and bed-room, situate in the main building of the workhouse; and during the whole of the qualifying period he separately occupied the said rooms as a dwelling by virtue of his employment as industrial trainer at the workhouse. The

guardians reserved another room in the main building of the workhouse as a board room.

The master of the workhouse (also appointed, paid, and employed by the guardians) resided in other rooms, situate in another part of the workhouse building.

By the poor law orders it was the duty of the master of the workhouse to receive from the porter the keys of the workhouse at 9 o'clock every night, and to re-deliver them to him at 6 o'clock every morning, or at such hours as should from time to time be fixed by the guardians.

The appellant could not stay out of his rooms after 9 p.m. without the master's permission. If, however, he did stay out after 9 p.m. without such permission, the master would have no power to suspend or dismiss him, but would report the matter to the guardians, who would deal with it either by reprimand or dismissal. Save in this respect, the appellant was not subject to the orders or control of the master.

It was contended by the objector that the appellant was a lodger in the rooms allotted to him by reason of the master of the workhouse (his official superior) residing in another part of the same building, and controlling the appellant in his right of ingress and egress to and from the said premises. It was contended on behalf of the appellant that he, having inhabited the rooms in question, and having had the separate use and occupation of the same for the necessary period by virtue of his office and employment, and his employers (the guardians) not having inhabited the said rooms or the said main building of the workhouse, was by virtue of section 3 of the Representation of the People Act, 1884, an inhabitant occupier of a dwelling-house as tenant.

The revising barrister decided that the residence of the master of the workhouse (the official superior of the appellant) was, in law, the residence of his employers (the guardians of the poor), and the fact

that the appellant could not stay out of his rooms after 9 p.m. without the permission of the master, and was liable to be reported if he did so, was an exercise of control sufficient in law to prevent his being an occupying tenant of a dwelling-house within the Representation of the People Act, 1884. He accordingly expunged the appellant's name.

The court (reversing the decision), held, firstly, that the appellant inhabited a "dwelling-house" by virtue of his employment within section 3 of the Representation of the People Act, 1884; secondly, that the workhouse was not inhabited by any person under whom the appellant served, as neither the guardians nor the master could be regarded as inhabiting the whole workhouse; and thirdly, that the appellant, in the absence of any power of dismissal by the master, did not serve under him: *Adams v. Ford*, L. R. 16 Q. B. D. 239; 1 Colt. Reg. Cas. 403; 55 L. J. Q. B. D. 13; 53 L. T., N. S. 666.

*Shop assistants separately occupying, by virtue of their employment, furnished bedrooms in a dwelling-house belonging to their employers, and sharing a sitting-room therein for their meals, the employers not residing in the house, but exercising a general control over it by means of a resident caretaker, and supplying service by means of a resident domestic servant, were held to be entitled to the franchise, each as an inhabitant occupier of a dwelling-house, under 48 Vict. c. 3, s. 3.*

BOROUGH OF ST. PANCRAS (SOUTH DIVISION).—The appellant claimed under section 3 of the Representation of the People Act, 1884; he had, during the qualifying period, been employed as a shop assistant, and, by virtue of such employment, had during the same period inhabited solely one furnished bedroom in a dwelling-house belonging to his employers. The house contained other bedrooms, similarly inhabited by other persons in the same



employment as the appellant; also a dining room, in which the appellant and the other inmates had their meals (provided for them by their employers) in common.

The appellant's bedroom was not structurally severed from the rest of the house, nor separately rated, and the appellant had no key of the room-door. The appellant's employers had not, during any part of the qualifying period, lived on the premises, but had exercised throughout the said period general control over the whole house, such control being enforced through a resident caretaker, who discharged the following duties:—

At a certain hour every night he locked the street-door (the only means of ingress and egress to and from the house) for the night, and took possession of the key, having previously required all visitors to leave the house. After locking the door for the night, he turned off the gas, by which all the rooms in the house were lighted, and saw that no lamp or candle was thereafter kept burning in any of the rooms.

The employers also performed by a resident servant (not under the orders of the inmates) the requisite domestic service for the bed-rooms and house generally.

It was contended at the revision court on behalf of the appellant and twelve other persons, whose appeals were consolidated with his, that the several bed-rooms occupied by them respectively were dwelling-houses for the purposes of section 3 of the Representation of the People Act, 1884, and that the appellant and the said twelve other persons were, under that section, entitled to be placed on the list of voters, each as an inhabitant occupier of a dwelling-house as a tenant.

The revising barrister decided that by reason of the control exercised, and service performed by the employers as above stated, the bed-rooms in question were not separately occupied as dwellings within 41 & 42 Vict. c. 26, s. 5, and therefore were not

dwelling-houses for the purposes of the Representation of the People Acts, 1867 and 1884, and he accordingly disallowed the claims.

The court held (reversing the decision) that the conditions of section 3 of the Representation of the People Act, 1884, had been complied with, and consequently that the appellant and the said twelve other persons were entitled to be registered each as an inhabitant occupier of a dwelling-house as a tenant within that section: *Stribling v. Halse*, L. R. 16 Q. B. D. 246; 55 L. J. Q. B. D. 15; 1 Colt. Reg. Cas. 409; 54 L. T., N. S. 268.

*The effect of section 15 of the Registration Act, 1885, is merely to remove from members of the University of Cambridge the particular disqualification which had previously attached to them, and not to confer on them a more extensive franchise than that enjoyed by an ordinary inhabitant occupier of a dwelling-house. Therefore Cambridge undergraduates, being prevented by college discipline from occupying their rooms in college throughout the entire period of qualification prescribed by statute, are not entitled to a vote in respect of such rooms.*

**BOROUGH OF CAMBRIDGE.** The appellant was objected to on the list of inhabitant occupiers. He was a student attached to one of the colleges in the University of Cambridge. He had occupied a set of rooms in college for the qualifying period at a yearly rental, payable by three terminal payments. The rates were paid by the college and were charged to the appellant with the rent.

There was no express agreement with regard to the hire of the rooms, which were furnished and kept in internal repair by the appellant.

The rooms had an outer door opening on to a common staircase. There were two keys to this

door, one kept by the appellant, and the other by the college servant who attended to the rooms.

By the latter key the college authorities obtained access to the rooms when required.

The appellant was bound to employ the college servants to attend upon him in his rooms.

The rooms formed part of the college buildings which were approached from the street by an outer gate, of which the college authorities had the control, and the appellant, who was in all respects subject to the discipline of the college, could not go out or bring friends into the college by this outer gate after 10 p.m.

It was a breach of college discipline for a student to remain out of college after midnight. *Students were not permitted to reside in or visit their rooms during the vacations, which extended to about half the year, without the express permission of the college authorities.* During such vacations the rooms were occasionally used by the college authorities for visitors for short periods, without the express consent of the students. When the rooms were so used for long periods such consent was usually obtained. Students were liable to removal from their rooms, without notice, for misconduct or breach of the rules.

No married student was permitted to reside in the rooms with his wife.

By the Cambridge Award Act, 1856 (19 & 20 Vict. c. xvii.), it is provided by section 24, that, "as respects college property, the whole thereof shall be deemed to be in the occupation of the college, although parts may be exclusively occupied by individual members or students."

It was contended by the respondent at the revision court, that by reason of this enactment there could be no occupation of college property by students; also that the appellant was not an inhabitant occupier as tenant of a dwelling-house within the meaning of section 3, sub-section 2, of the Representation of the People Act, 1867.

It was contended by the appellant, that such occupation was rendered unnecessary in the case of the appellant by reason of the proviso in section 15 of the Registration Act, 1885; also that the appellant was an inhabitant occupier as tenant of a dwelling-house within the meaning of the Act of 1867.

The names of 509 other persons were objected to under like circumstances. The revising barrister decided that by reason of the proviso in section 15 of the Registration Act, 1885, the Cambridge Award Act did not prevent the appellant from being registered as a parliamentary voter in respect of his occupation of the rooms; but that the appellant was not an inhabitant occupier as tenant of a dwelling-house within the Act of 1867, and that such occupation was not rendered unnecessary in the case of the appellant by reason of the proviso in section 15 of the Registration Act, 1885, and he accordingly expunged the names of the appellant and the said other persons from the list.

The court, affirming the decision, held, that the effect of section 15 of the Registration Act, 1885, was merely to place occupiers of college chambers on the same footing, in relation to the franchise, as other inhabitant occupiers, and consequently that, as the appellants had not inhabited, and had no power without permission from the college authorities to inhabit, their rooms during the prescribed statutory period of residence, they were not entitled to be placed on the register: *Tanner v. Carter*, L R. 16 Q. B. D. 231; 1 Colt. Reg. Cas. 435; 55 L. J. Q. B. D. 27 (sub tit. *Tanner v. Castor*); 34 W. R. 41; 53 L. T., N. S. 663.

*The effect of section 15 of the Registration Act, 1885, is merely to remove from members of the University of Oxford the particular disqualification which had previously attached to them, and not to confer on them a more extensive franchise than that enjoyed by an ordinary inhabitant occupier of a dwelling-house. Therefore Oxford undergraduates, being prevented by college discipline from occupying their rooms in college throughout the entire period of qualification prescribed by statute, are not entitled to a vote in respect of such rooms.*

CITY OF OXFORD. The respondent objected to the appellant and others (whose appeals were consolidated with this), being retained on the occupiers' list on the ground (*inter alia*), as to each appellant:—

1. That he had not occupied, either as owner or tenant.
2. That he had not occupied for twelve months to July 15th.
3. That he had not been an inhabitant occupier for twelve months up to July 15th.

The following facts were established by the evidence:—

Every name objected to was that of an undergraduate, occupying rooms in a college or hall of the University of Oxford.

No formal agreement for a tenancy was entered into between the college on the one side, and the undergraduates on the other; but in some of the colleges printed copies of the college regulations were supplied to the undergraduate when he came into residence. No notice to quit was given by either side previous to the surrender of a set of rooms. The colleges reserved to themselves the right to enter an undergraduate's room when they thought fit, and, in Balliol College, the right was claimed (to be exercised with reason), of using the rooms for academical purposes, such as a college meeting or lecture. The general right was qualified



in the case of Queen's College, where it existed only in the person of the junior bursar acting as landlord on behalf of the college for landlord purposes.

In every college an annual rent was paid by the undergraduate by three terminal payments, *i. e.*, at Easter, Midsummer, and Christmas. Rates were paid for the whole of the year in every instance by the undergraduate, either directly or indirectly: and in some colleges, where the value of the rooms permitted, the inhabited house duty as well.

The undergraduate was also charged for repairs and dilapidations.

In some of the colleges the furniture was the exclusive property of the college, and a charge for the use of it was included in the rent; but undergraduates were allowed to make their own additions; while in other colleges they furnished their rooms themselves. In Balliol an undergraduate could not even add to his furniture without permission of his college. A servant was attached to each set of rooms, and was provided with a key, which enabled him to enter the rooms as he pleased. The servant was supplied by the college, and the undergraduate had no voice in his selection.

At the end of each term the undergraduate was required to vacate his rooms, and to return to them at the commencement of the new term.

During term he could not leave his rooms so as to go outside the college after 9 p.m., nor could he enter the college so as to get to his rooms after that hour, except by payment of a fine, which was increased in amount according to the lateness of the hour at which he returned.

During vacation an undergraduate could not reside in his rooms without permission, but he was allowed to keep in them his furniture and personal effects. It was usual in vacation for the college authorities, in some instances, to lend an undergraduate's rooms to visitors without asking leave of the undergraduate, this consent being taken for

granted; and in one college (Wadham) an instance was given where an undergraduate was refused permission to occupy his rooms in vacation on the ground that they had been lent by the college; and in another (Keble), it was usual in the long vacation to lend all the rooms in the college to members of the diocesan conference, without in any way consulting the undergraduate occupants. The undergraduate had the use of one key of his rooms, and his servant had the use of another.

In every college the tenure of an undergraduate's rooms was subject to good behaviour, and the requirements of discipline, of which the college authorities constituted themselves the sole judges.

It was proved, in the case of every name objected to, that *the undergraduate in point of fact did not and could not, without leave, occupy his rooms during the vacations*; and that these vacations, of which there were three, comprised a period of six months in the year. During these vacations an undergraduate was allowed to occupy his rooms by means of his furniture and personal effects, and in some cases he could retain the key, but his control over the key and his personal effects was qualified by the fact that he could not use the one or touch the other without permission.

The barrister decided, in the case of each appellant, that he was not on the 15th of July then last, and had not, during the whole of the preceding twelve months, been an inhabitant occupier as "owner or tenant" of any dwelling-house within the borough as required by the Representation of the People Act, 1867; and further, that he had not during such period been an "inhabitant occupier" of a dwelling-house within the meaning of that Act.

The court, affirming the decision, held, that the effect of section 15 of the Registration Act, 1885, was merely to place occupiers of college chambers on the same footing in relation to the franchise as other inhabitant occupiers, and consequently that, as the

appellant had not inhabited, and had no power without permission from the college authorities to inhabit, their rooms during the prescribed statutory period of residence, they were not entitled to be placed on the register: *Banks v. Mansell*, L. R. 16 Q. B. D. 231; 1 Colt. Reg. Cas. 435; 55 L. J. Q. B. D. 27; 34 W. R. 41; 53 L. T., N. S. 663.

*Where a non-commissioned officer, inhabiting separate rooms in barracks as a dwelling-house by virtue of military service, was compelled by the rules of such service to be absent from his quarters in barracks for twenty-seven days of the qualifying year, it was held that such absence constituted a break of residence disqualifying him for the franchise under section 3 of the Representation of the People Act, 1884.*

BOROUGH OF WARRINGTON. The appellant's name appeared in division 2 of the occupiers' list, and he was objected to on the ground that he had not occupied the qualifying premises for the qualifying period.

The appellant was a married non-commissioned officer residing with his wife and family in the Orford Barracks, Warrington, in separate rooms allotted to him by the military authorities and constituting a dwelling-house partly furnished by himself.

The rooms had been assigned by the quarter-master, who might change them at his discretion, but in point of fact the rooms had been retained by the appellant during the qualifying year.

The appellant had been compulsorily absent on duty at Altcar in Lancashire for 27 days of the qualifying year, but whilst he was so absent his name was retained on the strength of the Warrington regimental depôt in the monthly return of the forces made by the commanding officer to the War Office, and the rooms continued to be occupied by the appellant's family and furniture.

The appellant could not, while compulsorily absent

at Altcar or elsewhere, return to personal inhabitaney of his rooms without a written permission or pass signed by the colonel or commanding officer prescribing the number of hours, and the purpose, for which it was granted, as well as the hours between which the pass could be used.

Reasonable leave was usually granted to persons in the appellant's position as of course, and the appellant had, in fact, availed himself of the privilege accorded, and returned to Warrington for one or more days during his period of compulsory absence.

The revising barrister found that the appellant had not occupied during the qualifying period, as he could not return, except by leave as aforesaid, without a breach of duty, and without subjecting himself to a trial by court-martial; the appellant's name was accordingly expunged.

The appellant gave notice of appeal, and the question reserved for the court was, whether the constructive inhabitaney of the appellant had, on the above stated facts, been made out.

The names of nineteen other persons were included in a schedule attached to the special case, the facts relating to each of whom being similar to those in the appellant's case, except that for one of them (a warrant officer), a verbal permission to return to the personal inhabitaney of his rooms was deemed by the military authorities sufficient in place of the written permission or pass above referred to.

The court dismissed the appeal, with costs, the case being governed by *Ford v. Barnes*, ante, pp. 203, 204; *Spittall v. Brook*, L. R. 18 Q. B. D. 426; 56 L. J. Q. B. D. 48; *Scott Fox's Reg. Cas.* 22; 35 W. R. 520.

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## NOTICES OF CLAIM—COUNTIES.

*Service of notice of claim on 20th July, a good service, although that day happens to fall on a Sunday.*

SOUTH LANCASHIRE. Notices of claim were delivered at the dwelling-house of one of the overseers of the township of West Derby, in his absence, about 9 p.m. on Sunday, 20th July, preceding the revision.

The overseers published such claims in the list of claimants, but inserted opposite to each name the word "objected;" and at the revision they contended that such service of the said claims respectively was insufficient, having been made on a Sunday, and the following day being too late by law for the service of the notices; and that such claimants, therefore, were not entitled to be registered. The revising barrister allowed the objections, and consolidated the several cases.

Held, reversing the decision, that the notices, having been delivered in compliance with section 4 of 6 Vict. c. 18, were well served: *Rawlins v. West Derby*, 2 C. B. 72; 1 Lutw. 373; 15 L. J. C. P. 70; 10 Jur. 268; B. & Arn. 599.

*Production of stamped duplicate of duly posted notice of claim (to overseers) sufficient substitute for service in due time.*

SOUTH CHESHIRE. A stamped duplicate of a notice of claim to the overseers was produced, showing that the notice was posted at Manchester on the 19th July, 1845.



In the ordinary course of post, it would have been delivered on 20th July (as required by section 4 of 6 Vict. c. 18), but it was not in fact delivered until the 22nd.

The overseers published this, and other claims, with the following note:—

“The whole of these claims, in consequence of negligence at the post-office, were not delivered until after the specified time.”

All the provisions of sections 100 and 101 of 6 Vict. c. 18, as to sending notices by post had been complied with.

Held, in accordance with *Bishop v. Helps*, 2 C. B. 45, *post* (“Notices of objection—Counties”), that the production of the stamped duplicate was a sufficient substitute for service in due time, there being no distinction in this respect between notices of objection and notices of claim: *Bayley v. Nantwich*, 2 C. B. 118; 1 Lutw. 363, *note*.

*Notice of claim not invalidated by reason of its being defectively addressed, if direction be such as to be “commonly understood,” within section 101 of 6 Vict. c. 18, to refer to the overseers of the parish at large.*

**EAST CUMBERLAND.** The parish of M. consisted of four divisions popularly, but improperly, called “townships.”

Four overseers were appointed for the whole parish, one being selected from the inhabitants of each of the so-called “townships.”

An assistant overseer was also appointed for the parish at large.

In preparing the county lists, the overseers of the parish had never acted as such, but each had always been accustomed to make out, in conjunction with the assistant overseer, a separate list of voters for the particular so-called “township” from which he had been selected.

In 1846, the clerk of the peace having sent his precept as usual to the overseers of each of the so-called "townships," each overseer published a separate notice requiring persons entitled in respect of property situate in his so-called "township" to send in their claims to him and the assistant overseer.

Each of such notices was signed by the particular overseer and assistant overseer only, who, after their signatures, designated themselves "overseers of the township of," &c.

In consequence of these notices, numerous notices of claim were served upon the different overseers; but in every case, the notice of claim was directed to, and served upon, "the overseer of the township of," &c., according to the requirement of the first-mentioned notice.

A separate list of claimants was prepared by each of the four overseers in conjunction with the assistant overseer. Each of such lists was headed "The list of persons claiming to vote, &c., in respect of property situate &c., within the township of," &c., and was signed by the particular overseer and the assistant overseer only, who designated themselves as "the overseers of the township of," &c.

The portion of the register in force for the parish of M. consisted of four separate lists, one for each of the four so-called "townships" above mentioned, each headed "Township of," &c.

Each of these last-mentioned lists, or parts of the register, was signed by the particular overseer and the assistant overseer only, designated, as above mentioned, as overseers of the so-called "township." These different lists were published together, and in immediate juxtaposition.

The revising barrister having determined that these last-mentioned lists were invalid by reason of their not having been signed by a majority of the overseers, as required by 6 Vict. c. 18, ss. 5, 101, considered that the register then in force for the parish

of M., consisting of the above-mentioned four portions, or lists, should be taken to be the list of voters for the said parish for the ensuing year, under section 27 (a) of the Act. He then proceeded to amend such last-mentioned list under section 40 (b), by expunging from the heading of each of the four portions thereof the words "township of," &c., and directing that such four portions should be printed together in one alphabetical list, headed "The parish of M." He then, by virtue of section 37, inserted in the list so amended the name of every person who, being omitted from the list of voters, proved that he gave due notice of his claim to his overseers in manner hereinbefore mentioned, and that he was entitled on the last day of July, 1846, to be inserted in the list of voters for the parish of M. It was objected, in the case of a party who had claimed as aforesaid, and whose name the revising barrister so inserted, that such insertion ought not to be made, as the claimant's notice of claim was addressed to, and served upon, the overseers of the so-called "township" in which his qualification was situate, instead of the overseers of the parish of M.

The revising barrister overruled the objection, and decided that the address in the notice of claim was, under the circumstances, such as "to be commonly understood" to refer to the overseers of the parish at large, that the notice was, therefore, sufficient within section 101 of 6 Vict. c. 18, and that it was well served.

The court held, that the decision was fully warranted by the facts: *Elliott v. St. Mary Within*, 4 C. B. 75; 1 Lutw. 575; 16 L. J. C. P. 101; 8 L. T. 343; 11 Jur. 69.

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(a) Repealed, save as appears in note (b), *ante*, on p. 103.

(b) This section was virtually superseded by s. 28 of the Parliamentary and Municipal Registration Act, 1878, and formally repealed by s. 17 of the Registration Act, 1885, and First Schedule thereto.

*If claim be inserted in list of voters under section 5 of 6 Vict. c. 18, it is not competent to revising barrister to inquire into sufficiency of the notice.*

GLAMORGANSHIRE. The appellant was objected to on the list of claimants.

The objector called upon the revising barrister to require proof, that the appellant gave due notice of his claim to the overseers. The barrister doubted whether he had power to require such proof from him, after his name had been inserted and published in the list of claimants; but, assuming that he had, he required the appellant to prove his notice of claim.

Whereupon a notice of claim in proper form was produced, and proved to have been delivered to the overseers in due time; but the claimant's name at the foot of the notice was not written by himself, but by another at his request.

The barrister held this notice sufficient, and reserved for the court the following questions:—

1. Whether the claimant ought to have been put to the proof of his claim.

2. Whether the notice of claim was sufficient.

Held, that, whether or not the notice was sufficient, it was not competent to the revising barrister to inquire into the sufficiency thereof, after the overseers had acted on it, by inserting the claimant's name in the list (*a*): *Davies v. Hopkins*, 3 C. B., N. S. 376; K. & G. 118; 27 L. J. C. P. 6; 30 L. T. 152; 4 Jur., N. S. 690; 6 W. R. 68.

(*a*) WILLIAMS, J., in delivering his judgment, said: "No doubt the principle of our decision goes the whole way of holding (and I have not the slightest hesitation in saying so) that if no notice of claim at all had been sent in, and the overseers had put the name on the list, the voter has a right to have his name retained on the list." 27 L. J. C. P. 9.

WILLES, J., after expressing his concurrence in the judgment of the court, added—"It is not to be supposed, because we decide, in effect, that the requirements of the legislature are satisfied in such a case as the present without any notice of claim whatever (for I go the full length of my brother WILLIAMS in applying the principle, *factum valet quod fieri non debuit*), that the overseers are,

£12 occupier (a) need not specify in claim the list in which he claims to have his name inserted.

EAST DEVONSHIRE. The appellant (an occupier of land of the rateable value of £12 in the parish of Widdicombe-in-the-Moor) had, on 25th August (b), 1871, sent to the overseers a notice of claim in the following form :

“To the overseers of the parish of Widdicombe-in-the-Moor.

“I hereby give you notice that I claim to be inserted in the list of voters for the division of East Devonshire, and that the particulars of my place of abode and qualification are stated in the columns below.

(Signed) “F. H. FIRTH.”

“Dated 25th August, 1871.”

In the third column the “nature of qualification” was stated to be “land as occupier.”

Held, that the provisions of 31 & 32 Vict. c. 58, s. 17, and 6 Vict. c. 18, s. 15, had been sufficiently complied with, and, therefore, that the notice was a good notice of claim to be placed on the list of £12 occupiers (a), although it did not show *on its face* that

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therefore, entitled to dispense with the provisions requiring a notice of claim. If, for an improper motive, an overseer were to put a person on a list without a notice of claim, he might, no doubt, be indicted, to say nothing of any penalties imposed by the statute upon such a breach of duty.” 27 L. J. C. P. 9, 10.

The decision in *Davies v. Hopkins* does not apply to notices of claim consequent on the omission of parties' names from the list of occupation voters. Persons who claim in consequence of such omission must, notwithstanding that their claims are published by the overseers, prove to the satisfaction of the barrister not only their qualification to vote, but also that they gave “due notice of claim”; see *In re Sale*, *post*, pp. 223—225. The *personal* signature of occupation claimants (other than those claiming in respect of lodgings) is probably not essential to a “due notice of claim.”

In the case of lodger claimants the notice of claim is part of the qualification to vote (*Hersant v. Halse*, *ante*, pp. 182, 183), and must, therefore, be strictly proved.

(a) See note (a), *ante*, on p. 96.

(b) The last day for service of notices of claim both in counties and boroughs is now 20th August; see the Registration Act, 1885, s. 3, sub-s. 1.



it was a claim to be placed on that list: *Firth v. Widdicombe-in-the-Moor*, L. R. 7 C. P. 172; 1 H. & C. 653; 41 L. J. C. P. 38; 25 L. T., N. S. 833.

*If claim be inserted in list of voters under section 5 of 6 Vict. c. 18, it is not competent to revising barrister to require proof that it was served on the overseers in due time.*

WEST GLOUCESTERSHIRE. A notice of claim was served on the overseers on 25th July, instead of, as required by section 4 of 6 Vict. c. 18, on or before 20th July. They published the claim nevertheless, on 29th July.

The claimant attended the revision court, and proved his qualification, and the barrister decided that his name should stand.

Held, affirming the decision, on the authority of *Davies v. Hopkins*, 3 C. B., N. S. 376, *ante*, p. 221, that it was not competent to the revising barrister to inquire into the lateness of the service of the notice of claim, after the overseers had acted on it, by inserting the claimant's name in the list: *Leonard v. Alloways*, 2 H. & C. 411; 48 L. J. C. P. D. 81; 40 L. T., N. S. 197.

*It was held to be the duty of revising barrister, before allowing the claims of £12 rated occupiers (a), to require proof to his satisfaction under section 37 or section 38 of 6 Vict. c. 18 (whichever of those sections was applicable), that due notice of such claims respectively had been given, the fact of their publication by the overseers not being conclusive on the question of due notice.*

NORTH WARWICKSHIRE. A revising barrister having, on application, refused to state a case for appeal from his decision in disallowing the claim of J. S. to be inserted in the list of £12 rated occupiers,

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(a) See note (a), *ante*, on p. 96.

a rule was obtained (at chambers) under section 37 of 41 & 42 Vict. c. 26, calling upon him to show cause why an appeal should not be entertained and a case stated.

The affidavit of G. N. (a registration agent), upon which the rule was granted, disclosed the following facts :—

J. S. had for many years been on the list of £12 rated occupiers for the Northern Division of the County of Warwick in respect of premises occupied by him in the hamlet of Aston, in the parish of Aston, in the said division ; but, in consequence (as the deponent believed) of the said J. S. having changed his residence, the overseers had omitted his name from the list of £12 rated occupiers for the then current year.

A notice of claim (purporting to be signed by the said J. S.) to have his name inserted in the said list was duly sent to the overseers, and they had included his name in the list of £12 occupier claimants published by them.

The claim was unopposed.

The qualification of the said J. S., as expressed in the said notice of claim, was proved to the satisfaction of the revising barrister ; and it was therefore contended on behalf of the said J. S. (who was not present), that his claim ought to be allowed.

The revising barrister objected that no evidence had been laid before him that the said J. S. had either signed a notice of claim himself, or authorized any other person to sign one on his behalf ; and he refused to allow the claim, holding that persons who claim in consequence of the omission of their names from the list of £12 rated occupiers must, notwithstanding that their claims are published by the overseers, prove to the satisfaction of the revising barrister, not only their qualification to vote, but also that they gave due notice of claim.

A notice in writing that the said J. S. was desirous to appeal against the said decision was duly given on

his behalf to the revising barrister (*a*), but he refused to state a case for appeal.

The court (without professing to lay down any general rule which might have the effect of unduly limiting the discretion of revising barristers) held, that the duty of the revising barrister to insert the claim of J. S. in the list of voters depended on its being proved to the revising barrister's satisfaction, under section 37 or section 38 of 6 Vict. c. 18 (whichever of those sections applied), that J. S. had given due notice of his claim to be inserted, and that, in the absence of such proof before the revising barrister, he was right both in disallowing the claim (*b*) and in refusing to state a case for appeal.

The rule was accordingly discharged with costs. *In re Sale*, Colt. Reg. Cas. 152; 50 L. J. C. P. D. 113; 43 L. T., N. S. 635.

(*a*) It seems that such a notice is a condition precedent to a case being stated: see *In re Bane and others*, *post*, "Practice."

(*b*) This decision is important as correcting an erroneous notion (which, it is believed, had extensively prevailed), that *Davies v. Hopkins* (3 C. B., N. S. 376; *ante*, pp. 221, 222) was applicable to all claims without distinction: see the third paragraph of note (*a*), *ante*, on p. 222.

## NOTICES OF CLAIM—BOROUGHES.

*“House” a sufficient description in third column of voter’s qualification (consisting of the occupation of two houses in succession), provided the situation of both houses be properly stated in fourth column.*

CITY OF LINCOLN. One whose qualification to vote consisted of the occupation of two houses in succession duly delivered a notice of claim, in the third column whereof the nature of the qualification was described as “house;” but the situation of both houses was properly described in the fourth column.

The barrister thought that the description in the third column was insufficient for the purpose of identifying the qualifying property; but he altered the statement to “houses occupied in immediate succession,” and inserted the claim in this amended form in the list of voters (*a*).

Held, that the notice of claim was in sufficient compliance with section 15 of 6 Vict. c. 18, Sch. B., form No. 6, for the third and fourth columns taken together showed a qualification in respect of the successive occupation.

Held, also, *per* ERLE, J., that the amendment, if necessary, was warranted by the statute: *Hitchins v. Brown*, 2 C. B. 25; 1 Lutw. 328; 15 L. J. C. P. 38; B. & Arn. 545; 9 Jur. 1058.

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(*a*) By the Registration Act, 1885, s. 4 (sub-s. 5), it is enacted that “The revising barrister need not insert in any list of voters for a parish in a county or borough the names of persons claiming to be inserted in such list, but may revise the list of claimants in like manner as if it were a list of voters, and sign the same as so revised, and deliver it to the clerk of the peace or town clerk as the case requires, and such clerk shall insert in the proper place in the lists of voters the name of each person appearing from the revised list of claimants so signed to be entitled to vote.”

*Where claim was in respect of successive occupation of houses, each of which was numbered, the omission of the number of one of them held fatal to validity of claim.*

**BOROUGH OF SCARBOROUGH.** The appellant claimed a vote in respect of houses occupied in succession.

The situation of the house firstly occupied by him was described in the fourth column of the claim as "Queen-street;" that of the second house, "15, Aberdeen-walk." Both houses were, and always had been, numbered.

The claim was opposed on the ground that the number of the first house was neither inserted in the list, agreeably to form No. 8 (a) in Schedule B. to 6 Vict. c. 18, or in the claim, agreeably to form No. 6 in the same schedule.

The revising barrister having held that the omission of the number of the first house disentitled the appellant to be inserted in the list of voters,

The court affirmed the decision.

*Seemle*, that if the number had been supplied, the revising barrister would have been bound to insert it in the list: *Flounders v. Donner*, 2 C. B. 63; 1 Lutw. 365; 15 L. J. C. P. 81; 10 Jur. 207; B. & Arn. 588.

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(a) In the case as reported, it is No. 3; but this is obviously an error, as No. 3 was the form enacted by 6 Vict. c. 18 for the list of voters made out by the overseers, and the appellant does not appear to have been on that list. Form No. 8 was the form enacted by the above-named statute for the list of claimants. The Parliamentary and Municipal Registration Act, 1878 (Schedule), gives new forms for notices and lists.



*Notice of claim sufficient, notwithstanding claimant's qualification is inaccurately described therein, provided inaccuracy be such, that, had it occurred in list of voters, it would have been amendable under section 40 (a) of 6 Vict. c. 18. Revising barrister should (in such a case), instead of amending notice of claim, receive proof of qualification under the notice as it stands, and then insert claim in list of voters in an amended form, as established by the evidence.*

BOROUGH OF CAMBRIDGE. M. (a claimant for a borough vote) proved due service of a notice of claim, the heading, and third and fourth columns of which were as follows :

“To the overseers of the parish of St. Andrew the Great, in the borough of Cambridge.

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|--------------------------|---|
| Nature of qualification. | Street, lane, or other place in this parish where the property is situate, and number of house, if any. |
| House .....              | St. Andrew's Hill, in the successive occupation of and from a house, No. 15, Hill's road.”              |

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It was proved that Hill's road ran into the parishes of St. Andrew the Great and St. Andrew the Less, and that No. 15, Hill's road, was in the parish of St. Andrew the Less.

The revising barrister decided that the notice of claim was insufficient, by reason of its stating the qualification to be in respect of successive occupations

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(a) See note (b), *ante*, on p. 220.

of two houses, both of which, by reference to the heading of the fourth column, appeared to be in the parish of St. Andrew the Great, whereas one of them (No. 15, Hill's road), was in that of St. Andrew the Less. But he amended the claim by adding to "15, Hill's road" the parish in which it was situate, in order to "enable the claimant to give evidence in support of successive occupations in the two parishes;" and, as the title to vote was proved in other respects, he inserted the claimant's name in the list of voters in the parish of St. Andrew the Great.

The barrister referred to the court the question whether he had power to amend the claim; and whether he had power, under the circumstances, to receive evidence of a qualification consisting of the successive occupations of two houses in different parishes.

Held, that the revising barrister was substantially right, but formally wrong, as he should have received evidence of the successive occupations under the claim as it stood, the amendment thereof being unnecessary; and, on its appearing from such evidence that the inaccuracy of description was one which would have been amendable under section 40 (a) of 6 Vict. c. 18, had it occurred in a list of voters, it was his duty to insert the claimant's name in the list under section 38, which it was competent to him to do in an amended form: *Eaden v. Cooper*, 11 C. B. 18; 2 Lutw. 183; 21 L. J. C. P. 32; 16 Jur. 549.

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(a) See note (b), *ante*, on p. 220.

*Where number of house, omitted from second column of claim (the claim not being altogether illusory), was supplied to the revising barrister: held, that he was warranted by section 40 (a) of 6 Vict. c. 18, in inserting it in the list.*

BOROUGH OF CAMBRIDGE. The respondent claimed a vote for the borough, and described his qualification as "house," "Ely place."

It was proved that the houses in Ely place were numbered, and that the respondent's house was numbered 16.

The revising barrister, on proof that the respondent had given due notice of claim, and that he was duly entitled in respect of the qualification described therein, inserted his name in the list of voters in the form of his notice of claim, with the addition of the number of the house in the fourth column.

Held, that (the notice of claim not being altogether illusory) such amendment was warranted by 6 Vict. c. 18, s. 40 (a): *Barlow v. Mumford*, L. R. 2 C. P. 81; H. & P. 335; 36 L. J. C. P. 65; 12 Jur., N. S. 964; 15 W. R. 221; 15 L. T., N. S. 441.

*"House" in a notice of claim a sufficient description of claimant's qualification as occupier of a house, although the borough, where the vote is claimed, has a list of freeholders under section 31 of Reform Act, 1832, as well as a list of occupiers under section 27 (b). Such description, if insufficient, held to be amendable under section 40 (a).*

CITY OF EXETER. G. claimed to have his name inserted in the occupiers' list for the parish of St. David.

In the notice of claim, and in the list of claimants published by the overseers, the nature of G.'s qualification was described as "house."

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(a) See note (b), *ante*, on p. 220.

(b) Repealed, save as appears in note (b), *ante*, on p. 103.

He was proved to be qualified as the occupier of a house of the clear yearly value of £10.

Exeter is a city and county of itself, having reserved rights of voting as freeholders and freemen under the Reform Act, 1832, and therefore, owners of freehold property have votes for the city; and the overseers of each parish make out two lists—one of occupiers, and the other of persons entitled by virtue of other rights, except as freemen, which lists, when revised by the barrister, are amalgamated into one list by the town clerk, forming the register of voters for the city.

Held, that “house” was a sufficient description of G.’s qualification as occupier of a house under 2 Will. IV. c. 45, s. 27, although there existed in the borough a freehold, as well as an occupation franchise.

Held also, that, if necessary, the revising barrister had power, under section 40 (a) of 6 Vict. c. 18, to amend, by inserting the claimant in the list as “occupier of a house”: *Ford v. Boon*, L. R. 7 C. P. 150; 1 H. & C. 668; 41 L. J. C. P. 28; 20 W. R. 251; 25 L. T., N. S. 830.

*Omission of “amount of rent paid,” and of “address of landlord,” from a new lodger claim, are not mistakes in a “list,” within section 28, sub-section 1, of 41 & 42 Vict. c. 26, but mistakes in a “claim,” within sub-section 2 of that section. Power of revising barrister to correct such mistakes, not compulsory.*

**BOROUGH OF CHELSEA.** The appellant claimed as a lodger (b) in respect of residence in the parish of St. Mary Abbots, Kensington.

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(a) See note (b), *ante*, on p. 220.

(b) The case not stating in express terms whether the appellant and the other claimants were *new* or *old* lodgers, it was admitted by counsel on their behalf that they all claimed in the former character.

His notice of claim was defective in the following particulars :—

1. The “amount of rent paid” was not stated in the fourth column, as required by Form (H.), No. 2, in the schedule to the Parliamentary and Municipal Registration Act, 1878.
2. The landlord’s “address” was not stated in the fifth column, as required by the same enactment.

Satisfactory evidence was supplied both as to the amount of rent paid, and also as to the address of the landlord, but the revising barrister refused (for reasons stated in the case) to amend, and he accordingly disallowed the claim.

Eight other persons also claimed as lodgers (*a*) in respect of residence within the parishes of St. Mary Abbots (Kensington), Fulham, Chelsea, and Hammersmith. Their respective notices were defective by reason of the omission of the landlords’ addresses from the fifth column. Satisfactory evidence was supplied as to these addresses, but the revising barrister refused (for reasons stated in the case) to amend, and he accordingly disallowed the claims.

The court held, affirming the decision:—

1. That the omissions in question were not “mistakes proved to have been made in any *list*,” within section 28, sub-section 1, of the Parliamentary and Municipal Registration Act, 1878, and therefore the revising barrister was not *bound* to amend.
2. That such omissions were “mistakes proved to have been made in a claim,” within section 28, sub-section 2, and that the revising barrister had under that sub-section a *discretion* as to correcting them: *Pickard (b) v. Baylis*, L. R.

(*a*) See note (*b*), *ante*, p. 231.

(*b*) The declaration of appeal appended to the revising barrister’s



5 C. P. D. 235 ; Colt. Reg. Cas. 98 ; 49 L. J. C. P. D. 182 ; 41 L. T., N. S. 509 ; 28 W. R. 256.

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statement of the case in the above (consolidated) appeal is as follows:—

“On behalf of the above-named Henry Pickard, Charles Skinner, Thomas Francis Dillon Crocker, James Highland, Henry Pitt, John Scott, Thomas Doling, Simeon Worthy, and Walter Alfred Young, I appeal from this decision.

“RICHARD CLARENCE HALSE, 61, Cheapside.”

It does not appear that Richard Clarence Halse was himself personally “interested” in the matter of the appeal, and it may be doubted whether, the declarant having made and signed the declaration as a *mere agent*, the requirements of section 44 of 6 Vict. c. 18, were satisfied. See the observations of the court in *Wanklyn v. Woollett*, 4 C. B. 97, 98, 99.

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## NOTICES OF OBJECTION—COUNTIES.

*Not necessary in point of law that name of county or large town, in or near which objector's residence is situate, should be added to the description of the latter in a notice of objection sent to the voter, if the facts show that the description gives sufficient information without such addition.*

*Although Form No. 5 in Sched. (A.) to 6 Vict. c. 18, contains the words "on the register of voters for the parish of —," it is sufficient and proper to substitute in notice of objection the word "township" for "parish," if there be a separate list for the township.*

SOUTH LANCASHIRE. A notice of objection sent by post was in the following form:—

"To Mr. Samuel Warburton, of Newton, near Hyde, Cheshire—

"Take notice, that I object to your name being retained in the Harpurhey list of voters for the Southern Division of Lancashire.

"Dated this 18th day of August, 1844.

"(Signed) JOHN GADSBY, of Poplar grove, Didsbury, on the register of voters for the township of Manchester."

The objector's name appeared on the register of voters for the township of Manchester, and the place of his abode was stated in such register to be (as stated in the notice of objection), "Poplar grove, Didsbury." Poplar grove, Didsbury, was moreover, his actual place of abode.

The revising barrister decided that the notice was insufficient in fact, and that something ought to have

been added to the description of the objector's place of abode, as "Lancashire," or "near Manchester" (Didsbury being a few miles only from Manchester, and a township within the polling district of Manchester), or the like, as the case might be; and he retained the voter's name on the list without proof of qualification.

The question referred to the court was, whether the notice of objection was, under the facts and circumstances mentioned, sufficient in law.

Held, reversing the revising barrister's decision,—

1. That, as there was a list of voters for the township of Manchester, the notice was in sufficient compliance with Form No. 5 in Sched. (A.) to 6 Vict. c. 18, notwithstanding the substitution of the word "township" for "parish," being "to the like effect" as the said form, within section 7 of the statute.
2. That, in the absence of proof that there was any other Didsbury than that near Manchester, or that any practical inconvenience might have followed from the description of the objector's place of abode as given in the notice of objection, such notice was good in law, without any additional description, more especially as the description in the notice corresponded with that in the register (a): *Gadsby v. Warburton*, 8 Scott, N. R. 775; 7 M. & G. 11; 1 Lutw. 136; 14 L. J. C. P. 41; 9 Jur. 17; B. & Arn. 272. x

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(a) It seems from the subsequent cases of *Melbourne v. Greenfield*, 7 C. B., N. S. 1, *post*, pp. 243, 244, and *Calver v. Roberts*, 1 H. & C. 616, *post*, pp. 252, 253, that the objector must describe himself in his notices of objection as of his *actual* place of abode, without reference to the description in the second column of the register.

*Notice of objection not vitiated by adding the number and street to the objector's place of abode as described in list of voters.*

EAST GLOUCESTERSHIRE. An objector described himself in his notice of objection (to the voter) as of "398, High street, Cheltenham, on the register of voters for the parish of Cirencester."

The objector's name was on the register referred to, but his place of abode, as described therein, was "Cheltenham" only.

No. 398, High street, was within the parish of Cheltenham, and was the true place of abode of the objector.

Held, that the notice was "to the like effect" as Form No. 5 in Sched. (A.) to 6 Vict. c. 18, and was, therefore, sufficient: *Pruett v. Cox*, 2 C. B. 1; 1 Lutw. 304; 15 L. J. C. P. 17; 9 Jur. 994; B. & Arn. 514.

*Production of stamped duplicates of duly posted notices of objection (to voter and overseers) sufficient substitute for service in due time.*

EAST GLOUCESTERSHIRE. An objector produced duplicate notices of objection, in the proper form, to the voter and the overseers, bearing the Manchester post mark of 24th August, 1845 (the year of revision); and he proved that in the ordinary course of post the notices would have been delivered at the places to which they were respectively addressed some time on the following day (a).

The notices were not in fact delivered until 27th August, and had the post mark of 27th at the places to which they were addressed also impressed upon them.

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(a) This (25th August) was the day for service under section 7 of 6 Vict. c. 18. The day for service of notices of objection both in counties and boroughs is now 20th August. See the Registration Act, 1885, s. 3, sub-s. 1.

Held, that the stamped duplicate of a duly posted notice to the voter is made by section 100 of 6 Vict. c. 18, a sufficient substitute for service upon him under section 7; that the provisions of section 100 are extended to notices to overseers by section 101, provided such notices be directed to the overseers at their "usual place of abode"; that such condition must be assumed to have been complied with in the present case; and, consequently, that due notice of objection both to the voter and the overseers was sufficiently proved: *Bishop v. Helps*, 2 C. B. 45; 1 Lutw. 353; 15 L. J. C. P. 43; B. & Arn. 572 (a).

*Notice of objection must of itself give sufficient information of objector's place of abode, and cannot be aided by reference to register.*

MONMOUTHSHIRE. An objector described himself in his notice of objection (to the voter) as "of The Oaks, on the register of voters for the parish of St. Woollos."

In the list of voters for the parish of St. Woollos the objector's place of abode was described as "St. Woollos," and his qualifying property as "The Oaks."

It was proved that the objector lived at The Oaks, in the parish of St. Woollos.

The revising barrister decided, that the notice of objection, although insufficient of itself, by reason of the objector's place of abode being defectively stated therein, yet might be coupled with the register: and that, the two documents so coupled giving the requisite information, the notice was sufficient.

The court held, that as the notice did not contain *in itself* a sufficient statement of the objector's place

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(a) The two following cases, not being distinguishable from *Bishop v. Helps*, were determined by the decision therein: *Bishop v. Cox*, 2 C. B. 59, *note*; 1 Lutw. 363, *note*; 10 Jur. 16; B. & Arn. 582, *note*; *Hickton v. Antrobus*, 2 C. B. 82; 1 Lutw. 363, *note*; B. & Arn. 586, *note*.



of abode, it was bad in law (a), and could not be aided by reference to the register: *Woollett v. Davis* (b), 4 C. B. 115; 1 Lutw. 607; 16 L. J. C. P. 185; 11 Jur. 477; 8 L. T. 470.

*An external address, essential to duplicate notice of objection.*

MONMOUTHSHIRE. To prove that notice of objection had been duly given to one, Francis Brittain, an alleged duplicate notice, bearing the postmark "Pontypool, Aug. 24, 1847," was produced. On the face and at the top of such alleged duplicate there were the words "To Mr. Francis Brittain, Garndiffaith." But there was no address on the outside.

It was proved that on the back of the notice, which was delivered to, and retained by, the postmaster at Pontypool, to be forwarded by post to Francis Brittain, the words "To Mr. Francis Brittain, Garndiffaith," were written so as to form, when the paper was folded into the shape of a letter, an external direction to him.

Held, that as the paper produced as a duplicate had no external address, it was not a "duplicate notice duly directed" within section 100 of 6 Vict. c. 18, and, consequently, was not available to the objector, under the provisions of that section: *Birch v. Edwards*, 5 C. B. 45; 2 Lutw. 37; 17 L. J. C. P. 32; 12 Jur. 18; 10 L. T. 206.

(a) See per WILDE, C. J., in *Sheldon v. Fletcher*, 5 C. B. 14, and the note to that case, *post*.

(b) The heading of this appeal in the Common Bench Reports is "Thomas Woollett, on behalf of John Llewellyn and eighty-three others, Appellant, Henry John Davis, Respondent;" and the learned reporter refers to *Wanklyn v. Woollett*, 4 C. B. 56; see the note to that case *post*, "Practice."

*Notice of objection to name being retained “on the list of voters for the parish of S., in the southern division of the county of W.,” instead of (as the form prescribes) “in the parish of S. list of voters for the southern division, &c.,” held a sufficient compliance with 6 Vict. c. 18, s. 7, Sched. (A.), Form No. 5.*

**SOUTH WILTS.** A notice of objection was in the following form:—

“To Mr. J. L., of the parish of Milford, in the county of Wilts.

“Take notice that I object to your name being retained in the list of voters for the parish of St. Thomas, New Sarum, in the Southern Division of the county of Wilts.

“Dated, &c.

“(Signed) &c.”

It was objected at the revision court, that the notice was bad, as not being in accordance with the Form No. 5 in Schedule (A.) of 6 Vict. c. 18, or “to the like effect.” It did not appear from the case that there was any other list to which the notice could apply. The revising barrister having decided that the notice was sufficient,

The court, affirming the decision, held, that the notice was “to the like effect” as Form No. 5 in Schedule (A.) of the statute, and that the county list described in the notice was “so denominated as to be commonly understood,” within section 101, to mean the parish of St. Thomas, New Sarum, list of voters for the southern division of the county of Wilts: *Lambert v. St. Thomas, New Sarum*, 12 C. B. 642; 2 Lutw. 222; 22 L. J. C. P. 31; 20 L. T. 80.

*Notice of objection sent by post, addressed to overseers of the parish or township of —— (naming it), without adding name of county, sufficient, if received in due time.*

WEST KENT. A duplicate notice of objection, produced before the revising barrister, was addressed "To the overseers of the parish or township of Bethersden, near Tenterden," without naming the county, as directed by section 101 of 6 Vict. c. 18.

It bore the London post office stamp of 24th August, 1855 (the year of the revision).

The notice, of which that referred to above was the duplicate, was proved to have been duly received on or before 25th August (*a*), by the overseers of Bethersden.

Held, that the notice having been found to have duly reached the overseers, the address was "such as to be commonly understood," within the saving clause in section 101 of the statute, and that, consequently, the notice and service thereof were sufficient (*b*): *Jones v. Innous*, 17 C. B. 290; K. & G. 21; 25 L. J. C. P. 78; 1 Jur., N. S. 1112; 4 W. R. 84.

*Notice of objection sent by post, addressed to overseers of the parish or township of —— (naming it), without adding name of county, sufficient, if acted on by the overseers, such conduct on their part affording a prima facie presumption that they received the notice in due time.*

WEST KENT. A duplicate notice of objection, produced before the revising barrister, was addressed,

(*a*) See note (*a*) on p. 236.

(*b*) It will be observed that the stamped duplicate notice in the above case was not addressed to the overseers at their "*usual place of abode*." Without such addition, pursuant to section 101, the provisions of section 100 as to stamped duplicates do not apply to notices to overseers: see *Bishop v. Helps*, 2 C. B. 45, *ante*, pp. 236, 237. The attention of the court, however, does not appear to have been directed to the defect in question.

“To the overseers of the parish or township of Barming, in Maidstone,” without naming the county, as directed by section 101 of 6 Vict. c. 18.

It bore the London post office stamp of 24th August, 1855 (the year of the revision), and the notice of which it was the duplicate would in the ordinary course of post have been delivered on or before 25th August (a), 1855.

It did not appear whether the overseers had or had not received the notice (sent by post) on or before the day last mentioned; but it was proved that they did, on or before 29th August, send to the clerk of the peace a list of persons objected to, including the name of the person, to the retention of whose name on the list of voters for the parish or township of Barming the notice in question related. It was also proved that they had published such list.

Held, in accordance with *Jones v. Innous*, *supra*, that the notice and service thereof were sufficient, for, the overseers having acted on the notice, it was to be assumed, in the absence of evidence to the contrary, that they had received it in due time (b): *Godsell v. Innous*, 17 C. B. 295; K. & G. 24; 25 L. J. C. P. 79; 1 Jur., N. S. 1112; 4 W. R. 85.

(a) See note (a) on p. 236.

(b) See note (b) to *Jones v. Innous*, *supra*.

Where a notice of objection does not reach the overseers within the time limited by statute, and that fact appears, their acting on such notice by publishing the objection will not, it is submitted, operate as a waiver of the irregularity: see *Barton v. Ashley*, 2 C. B. 4, 10, 11, *post*, pp. 265, 266. An objector can always protect himself against such a contingency by availing himself of the provisions of sections 100, 101, of 6 Vict. c. 18, relating to stamped duplicates: see *Bishop v. Helps*, 2 C. B. 45, *ante*, pp. 236, 237, and *Hornby v. Robson*, 1 C. B., N. S. 63, *post*, pp. 242, 243.

*Notice of objection sent by post to voter at his place of abode as described in list, sufficient, without adding to the address the name of township contained in heading of list.*

WEST RIDING OF YORKSHIRE. The respondent was objected to as not being entitled to have his name retained in the list of voters for the township of Pudsey. That list was headed as follows:—

“The list of persons claiming to be entitled to vote in the election of knights of the shire for the West Riding of the county of York, in respect of property situate in whole or in part within the township of Pudsey.”

The respondent's name was inserted in the above-named list in the following form:—

|                          |              |                                 |  |
|--------------------------|--------------|---------------------------------|--|
| Sharp, Emanuel<br>Brown. | Lidget hill. | Freehold<br>houses<br>and land. | Church lane, Low-<br>town, Robin lane,<br>and Richardshaw<br>lane. |
|--------------------------|--------------|---------------------------------|--|

A notice of objection was directed “Mr. Emanuel Brown Sharp, Lidget hill,” and was duly posted at Leeds.

Held, that the direction in the notice was sufficient and proper, without the addition of “Pudsey,” such description not being necessarily incorporated in the description of the place of abode, by reference to the heading of the list: *Flint v. Sharp*, 17 C. B. 281; K. & G. 13; 25 L. J. C. P. 36; 26 L. T. 90; 4 W. R. 24; 1 Jur., N. S. 1141.

*Production of stamped duplicate, conclusive evidence of service in ordinary course of post, although such service has been, in fact, prevented by delay at post office.*

NORTH DURHAM. Notices of objection, directed to the overseers and to the person objected to, were delivered, open and in duplicate, to the postmaster, at the post office in Durham, within the usual busi-



ness hours, on 22nd August, 1856 (the year of the revision). It was proved at the revision court that such notices would, in the ordinary course of post, have been delivered to the persons to whom they were respectively addressed on that or the following day at latest.

Owing to a delay at the post office at Durham, the notices did not reach their respective destinations until 26th August. The stamped duplicates were produced before the revising barrister, bearing the Durham post office stamp of 22nd August.

Held, in accordance with *Bishop v. Helps*, (*ante*, pp. 236, 237), that the production of the stamped duplicates was a sufficient substitute for proof of the notices having been delivered to the parties to whom they were addressed in the ordinary course of post: *Hornsby v. Robson*, 1 C. B., N. S. 63; K. & G. 66; 26 L. J. C. P. 55; 3 Jur., N. S. 674.

*Objector must describe himself in notice of objection by his actual place of abode, without regard to second column of register; if, instead of so describing himself, he copy his address from register, notice will be bad; error not cured by section 101 of 6 Vict. c. 18.*

**SOUTH DERBYSHIRE.** An objector described himself in his notice of objection (to the voter) thus:—

“James Melbourne,

“Of Cowhill, Belper, on the register of voters for the parish or township of Belper.

“Dated August 15th, 1859.”

The objector's name appeared on the register of voters for the township of Belper, and was therein described as follows:—

|                   |  |                     |  |                              |  |         |
|-------------------|--|---------------------|--|------------------------------|--|---------|
| Melbourne, James. |  | Cowhill,<br>Belper. |  | Freehold houses and<br>land. |  | Gutter. |
|-------------------|--|---------------------|--|------------------------------|--|---------|

He had removed from Cowhill, Belper, in October,

1858, to a place called Gutter, in the same township of Belper, and was not living at Cowhill, when he signed the notice of objection.

Held 1, that the objector's "place of abode" required by the Registration Act, 1843, to be appended to a notice of objection, is *his actual residence at the time of his signing such notice*, and not his place of abode as described in the register (if he has removed therefrom), and that the notice in question, being deficient in that respect, was bad; 2, that such defect was not cured by section 101 of the statute, that section applying only to an unintentional error, and not to a misdescription, where the party has written what he intended to write: *Melbourne v. Greenfield*, 7 C. B., N. S. 1; K. & G. 261; 29 L. J. C. P. 81; 6 Jur., N. S. 510; 1 L. T., N. S. 93.

*Production of stamped duplicate notice of objection, duly signed by objector, is evidence of objector having also signed notice left with post-master to be forwarded to voter.*

WEST KENT. A document purporting to be a duplicate notice of objection, stamped at the proper post-office on 24th August, 1861, was produced before the revising barrister, pursuant to section 100 of 6 Vict. c. 18; and it was proved, that the notice left with the post-master would in due course of post have reached the person objected to on the 25th August (a).

The signature to the stamped duplicate produced was proved to be in the handwriting of the objector, but no proof was given beyond that, that the notice sent by post had been signed by him, as required by section 7 of the statute.

Held, that the production of the stamped duplicate notice signed by the objector sufficiently proved that the notice sent by post was also signed by him: *Lewis v. Roberts*, 11 C. B., N. S. 23; K. & G. 402; 31 L. J.

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(a) See note (a) on p. 236, *ante*.

C. P. 51; 8 Jur., N. S. 485; 5 L. T., N. S. 351; 10 W. R. 80.

*Objector may send notice of objection to overseers by post in the ordinary way (without adopting statutory mode), but in that case it must appear that notice reached overseers in due time.*

MIDDLESEX. [The case named below was substantially the same as *Smith v. Huggett*, *post*, pp. 278, 279, and is governed by the same decision, the only difference between the two cases being, that, whereas in *Smith v. Huggett* the notice of objection related to a borough vote, that in the present case referred to a vote for the county]: *Smith v. James*, 11 C. B., N. S. 62; K. & G. 448; 31 L. J. C. P. 38; 5 L. T., N. S. 425; 8 Jur., N. S. 619; 10 W. R. 131 (a).

*Objector's usual signature to notice of objection, although illegible to a person unacquainted with his handwriting, sufficient, if written with due care to give requisite information to person objected to.*

NORTH RIDING OF YORKSHIRE. To prove service of due notice of objection on the person objected to, a duplicate notice was produced, signed by the objector, who was on the register of voters as "Sedgwick Leonard, M.A., Fencote Hall, Freehold house and land, The Hall." Such duplicate was signed by the objector with his usual signature; but, though his christian name, and the rest of his description, except his surname, were legible, the surname was so illegible, that an ordinary person, unacquainted with the objector's handwriting, could not by ordinary diligence, without reference to the register, arrive at any reasonable conclusion as to what the surname was intended to designate.

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(a) *James v. Smith* (11 C. B., N. S. 65, *note*), in which the facts were the same as in *Smith v. Huggett* and *Smith v. James*, except that there each notice was in a separate envelope, was (the learned reporter states) taken to be disposed of by the decision in those cases.

Held, reversing the revising barrister's decision, that the notice was sufficient, inasmuch as the signature thereto was the objector's usual signature, and there did not appear to have been any want of due care on his part, when signing the notice, to give due information to the person objected to (*a*): *Trotter v. Walker* (Aylan's case), 13 C. B., N. S. 30; K. & G. 534, 543; 32 L. J. C. P. 60, 63.

*Objector's usual signature to notice of objection, although illegible to a person unacquainted with his handwriting, sufficient, if written with due care to give requisite information to person objected to.*

NORTH RIDING OF YORKSHIRE. [This case was, with the exception of one fact which was immaterial, the same as Aylan's case, *supra*, and is governed by the same decision]: *Trotter v. Walker* (Hallam's case), 13 C. B., N. S. 40; K. & G. 534; 32 L. J. C. P. 60, 61; 9 Jur., N. S. 603.

*Objector's usual signature to notice of objection, although illegible to a person unacquainted with his handwriting, sufficient, if written with due care to give requisite information to person objected to.*

NORTH RIDING OF YORKSHIRE. [This case was in substance the same as *Trotter v. Walker* (Aylan's case), *supra*, except that the objector in stating his place of abode (Fencote Hall), had written the word "Fencote" illegibly in the same degree as he had written his surname: it was held, that this additional fact carried the case no further than *Trotter v. Walker*]: *Sedgwick v. Trevor*, 13 C. B., N. S. 42; K. & G. 534, 544; 32 L. J. C. P. 60, 64; 9 Jur., N. S. 603, 606.

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(*a*) The court added, "Cases of fraud stand on their own ground; and cases of utter illegibility, of the objector's inability to write his name, and of the total absence of signature, admit of other considerations; and we desire to give no opinion upon them."

*Not necessary to give a separate notice of objection to overseers in respect of each voter objected to.*

CAMBRIDGESHIRE. A notice of objection was in the following form :—

“To the overseers of the parish of Whittlesey,  
in the county of Cambridge.

“I hereby give you notice that I object to the names of the persons mentioned and described below being retained in the list of voters for the county of Cambridge.” [Here followed a schedule, with four columns respectively headed: “Christian and surname of the voter objected to, as described in the list or register;” “Place of abode, as described;” “Nature of qualification, as described;” “Street, &c., where the qualifying property is situate, &c., as described in the list or register,” in which columns were inserted the names, places of abode, and alleged qualifications of the several persons objected to.] “Dated the 11th day of August, 1865.

“GEORGE MOORE SMITH,  
of Whittlesey.”

Held, that the notice was to “the like effect,” as Form No. 4 in Sched. A. to 6 Vict. c. 18, and, therefore, a sufficient compliance with section 7: *Smith v. Holloway*, L. R. 1 C. P. 145; H. & P. 281; H. & R. 315; 12 Jur., N. S. 164; 35 L. J. C. P. 100; 13 L. T., N. S. 468; 14 W. R. 202.

*Notice of objection need not be dated the day on which it is signed. It is sufficient (so far as the date is concerned) if it be dated on a day on which objector is qualified to object, and within period allowed for objecting.*

MERIONETHSHIRE. A notice of objection to the voter was dated 18th of August, 1865 (the year of



the revision), but the notice to the overseers was dated 12th of August, 1865.

Both notices were signed by the objector on the 18th of August, 1865.

Held, that the notice to the overseers being dated on a day on which the objector was qualified to object, and within the period allowed for the making of objections, was valid, although the objector's signature was not actually written on that day (*a*): *Jones v. Jones*, L. R. 1 C. P. 140; H. & P. 320; H. & R. 341; 12 Jur., N. S. 123; 35 L. J. C. P. 94; 13 L. T., N. S. 633; 14 W. R. 204.

*Revising barrister has no power to expunge voter's name unless properly objected to, if qualification, as stated in list, be good on the face of it.*

MIDDLESEX. The qualification of a voter was stated in the list to be "freehold share in Fulham Bridge."

His vote was not objected to, but the revising barrister expunged his name, on the ground that the court, in *Tepper v. Nichols*, 18 C. B., N. S. 121, *ante*, pp. 36—38, had decided that the shareholders in Fulham Bridge had no qualification in respect of their shares.

It was admitted that there was no distinction between that case and the present.

Held, that the qualification as stated in the list being good on its face, the revising barrister had no power to expunge the name unless it was properly objected to: *Smith v. James*, L. R. 1 C. P. 138; H. & P. 317; H. & R. 338; 12 Jur., N. S. 125; 14 W. R. 201; 13 L. T., N. S. 469.

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(*a*) It is clear that the above decision would apply equally to a notice to the *voter*, and, as observed by BYLES, J. (L. R. 1 C. P. 144), to notices of claims.

*Note to Form No. 10 in Sched. B. of 6 Vict. c. 18 does not apply to notices of objection (to overseers) in counties, notwithstanding there are, since 30 & 31 Vict. c. 102, s. 30, and 31 & 32 Vict. c. 58, s. 19, more than one list of voters for a county.*

**SOUTH-EAST LANCASHIRE.** R. was objected to on the register of voters for the township of Moss Side, his qualification being stated to be "freehold house and land."

Besides the copy of the register and list of claimants, forming together the list of voters for the township, in pursuance of 6 Vict. c. 18, s. 6, there was a separate list of £12 occupiers (*a*), made out pursuant to 30 & 31 Vict. c. 102, s. 30, and 31 & 32 Vict. c. 58, s. 19.

The notice of objection (to the overseers) did not specify the list on which the name of the person objected to appeared, but it gave his qualification as described in the register, and was in accordance with Form No. 4, Sched. A. to 6 Vict. c. 18.

Held that, notwithstanding that it is the duty of the overseers to make out a separate list of £12 occupiers (*a*) under the provisions of section 30 of 30 & 31 Vict. c. 102, and section 19 of 31 & 32 Vict. c. 58, the distinction between notices of objection (to overseers) in counties and boroughs respectively is unaffected by those provisions, and consequently, the notice in question was good, although it did not specify the list to which the objection referred, as directed (in the case of boroughs) by the note to Form No. 10 in Sched. B. of 6 Vict. c. 18: *Chorlton v. Johnson* (Ree's case), L. R. 4 C. P. 400; 1 H. & C. 54; 38 L. J. C. P. 39; 17 W. R. 119; 19 L. T., N. S. 530.

*A £12 occupier (a), whose vote was objected to, was held entitled to a specific statement of the grounds of objection.*

**SOUTH-WEST LANCASHIRE.** A. was objected to on the list of voters, as £12 occupiers, for the township of Bootle-cum-Linacre.

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(*a*) See note (*a*), *ante*, on p. 96.

The notice of objection served upon him was in the following form:—

“I hereby give you notice that I object to your name being retained in the list of voters for the south-west division of the county of Lancaster.”

Held, that A. not being a claimant within the exception of 28 Vict. c. 36, s. 6, the notice of objection was bad for not specifying the ground or grounds of objection: *Bennett v. Brumfitt* (Alderson’s case), L. R. 4 C. P. 407; 1 H. & C. 80; 38 L. J. C. P. 65; 17 W. R. 202; 19 L. T., N. S. 283.

*Where, in a notice of objection, served on the voter, the sufficiency of description of objector’s place of abode is doubtful, it is matter of evidence for revising barrister whether the notice in fact gives the requisite information.*

MERIONETHSHIRE. In a notice of objection served on the voter (a), the objector’s place of abode was described as “Bonnygraig” simply (without any addition).

It was proved and admitted that the objector could be easily found on inquiry at the place where his qualifying property was situate, and that “Bonnygraig” was well known there, and could be found without any difficulty.

Held, reversing the barrister’s decision, that the notice was not bad in law on the face of it, and that evidence was admissible to show that, under the particular circumstances, it gave the requisite information: *Jones v. Pritchard*, L. R. 4 C. P. 414;

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(a) The notice of objection was in accordance with Form No. 5 in Sched. A. to 6 Vict. c. 18; but it appears from the case, as reported in 1 H. & C. 91, that the objection referred to the voter’s alleged qualification as a £12 occupier. Such being the case, the notice in question should have been according to Form No. 2 in Sched. A. to 28 Vict. c. 36. The error was fatal to the validity of the notice (*Bennett v. Brumfitt* (Alderson’s case), *supra*), but was not taken advantage of.

1 H. & C. 91; 38 L. J. C. P. 67; 17 W. R. 175;  
19 L. T., N. S. 563.

*If objector fail to prove stamped duplicate notice of objection, and voter produce original notice duly received by him, objector may have recourse to the latter to prove the service.*

EAST KENT. An objector having produced a document purporting to be a stamped duplicate of a notice of objection sent by post, under sections 100 and 101 of 6 Vict. c. 18, the person objected to, with the view of proving that it was not in fact a duplicate, produced the original notice duly received by him by post, when it was found that the two documents did not correspond.

The revising barrister having decided that the statute had not been complied with, the objector claimed to take up the original notice produced by the person objected to, and to make it evidence on his (the objector's) behalf that the notice of objection had been duly served.

The court held, reversing the decision of the revising barrister, that it was competent to the objector to do so: *Norris v. Pilcher*, L. R. 4 C. P. 417; 1 H. & C. 173; 38 L. J. C. P. 69; 17 W. R. 225; 19 L. T., N. S. 563.

*Where revising barrister states his reasons for arriving at a conclusion of fact, the court will entertain the question of their validity, and reverse the decision, if the reasons given appear insufficient to justify it.*

EAST KENT. In a notice of objection duly served on the person objected to, the objector's abode was described thus:—

(Signed) “FREDERICK NORRIS.

(Place of abode described on the Register),

“22, Southampton Street, Bloomsbury, London, W.C.,

(Present place of abode),

“110, Guildford Street, Russell Street, W.C.”

The revising barrister decided that the description of the objector's present place of abode was incorrect, defective, and misleading, for the following reasons:—

1. It was not stated therein in what city, town, or place Guildford Street, Russell Street, W. C., was situate.
2. There was, in ordinary parlance, no such street as Guildford Street, Russell Street, in the west central postal district of London, the only streets within such district bearing the name of "Russell," being Russell Street, Covent Garden, and Great Russell Street, both of which were a long way from Guildford Street.

Held, that the reasons (a) stated were insufficient to justify the conclusion that the notice was misleading; that London might be supplied in the second address from the preceding one, and Russell Street rejected as surplusage, and, therefore, the decision was wrong: *Norris v. Pilcher*, L. R. 4 C. P. 417; 1 H. & C. 173; 38 L. J. C. P. 69; 17 W. R. 225; 19 L. T., N. S. 563.

*Objector must, in his notices of objection, describe himself as of his actual place of abode.*

**SOUTH ESSEX.** An objector described himself, in his notices of objection, as of "Pembroke Road, Walthamstow, E., on the register of voters for the parish of Walthamstow, in the southern division of the county of Essex."

Some time previously to August, 1871, next pre-

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(a) BOVILL, C. J., in his judgment, said: "It is perfectly plain that, as a general rule, the revising barrister must decide all questions of fact, and that upon a pure question of fact the court cannot review his decision; but in this case the barrister has stated his reasons for arriving at his conclusion, and, as I understand it, has referred to the court whether those reasons ought, in law, to have led him to the conclusion at which he arrived. Taking the case in this view, I think his decision cannot be supported on either of the grounds suggested."



ceding the revision, he had resided at a house in Pembroke Road, Walthamstow, and his place of abode was so described in the register of voters for the time being.

A few days before signing the notices of objection he had removed to a house, then just completed, numbered 1, Grosvenor Park Terrace, Grosvenor Park Road, and he had let his house in Pembroke Road to a tenant, who was in occupation of it when the notices were signed.

The two houses were very near each other, and the objector being well known in the locality, could be easily found.

Held, in accordance with *Melbourne v. Greenfield*, 7 C. B., N. S. 1, *ante*, pp. 243, 244, that the notices of objection were bad, for not giving the objector's actual place of abode: *Calver v. Roberts*, 1 H. & C. 616; 20 W. R. 147; 25 L. T., N. S. 751 (a).

*Where part of a township is in one polling district, and the other part in another, it is sufficient (although each part be a "separate parish" within 31 & 32 Vict. c. 58, s. 22), if objector describe himself in notice of objection as "on the register of voters for the township," without specifying the list in which his name appears.*

**SOUTH-EAST LANCASHIRE.** The 22nd section of 31 & 32 Vict. c. 58, enacts, that "where any parish in a county, city, or borough forms part of more than one polling district, the part of such parish situate in each polling district shall be deemed to be

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(a) WILLES, J., is reported (1 H. & C. 624) to have said, that the court had *no power* to overrule *Melbourne v. Greenfield*, even if they desired to do so. But see per BRETT, J., in Orme's case, L. R. 8 C. P. 299; 2 H. & C. 80; and per BOVILL, C. J., and BRETT, GROVE, and DENMAN, JJ., in Hadfield's case, L. R. 8 C. P. 311, 313, 314, 318, 320, 321; 2 H. & C. 103, 104, 112, 113, 120, 124, 125; also per GROVE, J., in *Leonard v. Alloways*, 2 H. & C. 419. *Roberts v. Percival*, 18 C. B., N. S. 38, 39, may also be referred to as bearing on the same question.

*a separate parish for the purposes of the revision of voters, and the lists and register of voters."*

The township of Spotland was divided into two polling districts, that of Brandwood Higher End, and of Rochdale.

The overseers of the township published separate lists for each district under the above section.

In a notice of objection sent to a county voter, the objector, whose name appeared only on the list for the Rochdale district, described himself "as on the register of voters for the township of Spotland."

Held, that the notice, being in accordance with the form given in 6 Vict. c. 18, Sched. A. No. 5, was sufficient, and that, notwithstanding section 22 of 31 & 32 Vict. c. 58, there was no need of its specifying on which of the two lists the objector's name appeared: *Chorlton v. Tonge*, L. R. 7 C. P. 178; 1 H. & C. 632; 41 L. J. C. P. 33; 20 W. R. 338; 26 L. T., N. S. 25.

*Under a notice of objection stating that objection is grounded on third column, and relates to nature of voter's interest in the qualifying property, objector may show that the property, being situate in a borough, is such as to entitle voter to the borough franchise, and consequently such as to disqualify him as a county voter, under section 24 of Reform Act, 1832.*

**NORTH DURHAM.** The name of a person objected to appeared on the register of voters as follows:—

|                  |                                       |                       |                            |
|------------------|---------------------------------------|-----------------------|----------------------------|
| Cocken, William. | The Rectory,<br>Bishopwear-<br>mouth. | Freehold<br>benefice. | Bishopwearmouth<br>parish. |
|------------------|---------------------------------------|-----------------------|----------------------------|

The voter was the rector of Bishopwearmouth, and the qualification, the nature of which was described in the third column of the register, was the parsonage house of the rectory, to which he was entitled in right of his benefice.

The notice of objection was in the form given by 28 Vict. c. 36, Sched. A. No. 2, and stated that the objection was grounded on the third column of the register, and that it related to the nature of the voter's interest in the qualifying property.

The objection sought to be proved was, that the house was situate within the parliamentary borough of Sunderland, and that the voter had occupied it for a time sufficient to entitle him to a borough vote.

Held, that the notice of objection was sufficient, within 28 Vict. c. 36, s. 6, to allow of such proof being given: *Simey v. Dixon*, L. R. 7 C. P. 190; 1 H. & C. 626; 41 L. J. C. P. 18; 20 W. R. 238; 25 L. T., N. S. 811.

*Notice of objection sent to the voter (already on the register) by post, pursuant to section 100 of 6 Vict. c. 18, must contain his place of abode as described in list of voters transmitted to overseers by clerk of the peace, although voter may have changed his residence, and overseers have (improperly) altered and published such list accordingly.*

EAST DEVONSHIRE. The appellant was objected to on the list of voters for the parish of Buckland-in-the-Moor.

On the copy of the part of the register relating to that parish transmitted by the clerk of the peace to the overseers, the appellant's name appeared as follows:—

|                           |  |                        |  |                |  |                     |
|---------------------------|--|------------------------|--|----------------|--|---------------------|
| <i>Robert Noseworthy.</i> |  | <i>Boddacleave, in</i> |  | House and land |  | <i>Boddacleave.</i> |
|                           |  | this parish.           |  | as occupier.   |  |                     |

The overseers, knowing that the appellant had removed from Boddacleave to a farm called Bowden, before publishing the list expunged "Boddacleave" in the second and fourth columns, and inserted Bowden in each of those columns in lieu thereof.

In the list published by the overseers, therefore, the name appeared as follows:—

|                           |  |                                |  |
|---------------------------|--|--------------------------------|--|
| <i>Robert Noseworthy.</i> | <del><i>Buckland-in-the-Moor</i></del><br>this parish.<br><i>Bowden.</i> | House and land<br>as occupier. | <del><i>Buckland-in-the-Moor</i></del><br><i>Bowden.</i> |
|---------------------------|--|--------------------------------|--|

The copy of the register sent to the overseers was printed, and the alteration was in writing.

The objector duly sent by post to the appellant a notice of objection founded on the third and fourth columns of the register, which notice was addressed as follows:—

“To Mr. *Robert Noseworthy*, of *Bowden Farm*, *Buckland-in-the-Moor*.”

This was the correct address at the time the notice was sent.

Held, that the words in section 100 of 6 Vict. c. 18, “directed to the person to whom the same shall be sent at his place of abode as described in the said list of voters” referred to the place of abode described in the list of voters transmitted to the overseers by the clerk of the peace, and that the objector, having adopted the description of the abode as altered by the overseers, had failed to comply with the above section, and consequently could not avail himself of his duplicate notice of objection as a substitute for proof of service: *Noseworthy v. Buckland-in-the-Moor*, L. R. 9 C. P. 233; 2 H. & C. 127; 43 L. J. C. P. 27; 22 W. R. 155; 29 L. T., N. S. 675.

*Where there is no delivery of letters at voter's place of abode, except by some private accidental conveyance, service of notice of objection must be proved otherwise than by stamped duplicate, section 100 of 6 Vict. c. 18, not being applicable.*

PEMBROKESHIRE. Section 100 of 6 Vict. c. 18, enacts, that it shall be sufficient if the notice of objection be sent by the post, free of postage,

“directed to the person to whom the same shall be sent, at his place of abode as described in the list of voters,” and that the production of a stamped duplicate of it shall be “evidence of the notice having been given to the person at the place mentioned in such duplicate, on the day on which such notice would in the ordinary course of post have been delivered at such place.”

To prove service of a notice of objection, the stamped duplicate thereof was produced, addressed to the voter at “Wern,” which was his place of abode as described in the list of voters.

The nearest post town to Wern was a place called Efailwen, two miles distant.

The notice was posted so as to reach Efailwen, in the ordinary course of post, at 10 a.m. on 19th August.

There was no postal delivery at Wern, and the voter could not have received the notice unless by some private accidental conveyance.

No other evidence was given as to the service of the notice.

Held that, there being no evidence that on any known day there would be a delivery at Wern, section 100 of 6 Vict. c. 18, did not apply, and consequently that service in due time under section 7 of the statute was not proved: *Lewis v. Evans*, L. R. 10 C. P. 297; 2 H. & C. 279; 44 L. J. C. P. 41; 31 L. T., N. S. 487; 23 W. R. 244.

*The statement of the year of our Lord, an essential addition to date of notice of objection (to overseers).*

WEST RIDING OF YORKSHIRE (SOUTHERN DIVISION). The claim of C. J. E. to have his name inserted in the list of voters for the township of Alverthorpe-with-Thornes was objected to by W. F.,



who, on the 18th August, 1883, gave to the overseers a notice of objection which concluded as follows:—

“Dated the 18th day of August, 1880.

“ (Signed) Wm. FITTON,

“ of Church Street, Moldgreen,

“ Huddersfield.”

The above-mentioned notice was on a printed form, which had the date “1880” printed upon it. Another and a correctly dated notice of objection was given by the said W. F. to the claimant himself, whose name was included by the overseers in the list of objections published by them.

It was objected by the claimant at the revision court that the notice to the overseers was void in law, inasmuch as the year of our Lord was incorrectly stated therein.

The revising barrister found as a fact that the claimant was not inconvenienced or misled by the defective notice in question.

The court held that the omission of the proper date from such notice was fatal to its validity, and that the overseers had no power to waive the defect: *Freeman v. Newman*, 1 Colt. Reg. Cas. 342; 53 L. J. Q. B. D. 108; 32 W. R. 246; 51 L. T., N. S. 396.

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## NOTICES OF OBJECTION—BOROUGHES.

*Where notice of objection to the party, though in strict compliance with Form No. 11 in Schedule B. to 6 Vict. c. 18, was in fact a misdescription, it was held insufficient.*

CITY OF BRISTOL. A notice of objection duly served on a voter was signed "William Tudball, Hotwell Road, on the list of voters for the parish of Clifton."

The objector's name did not appear on either the householders' or freeholders' list of voters for the parish of Clifton, but it was on the alphabetical "list of the freemen of the city of Bristol," where he was stated to be "of the parish of Clifton."

Held, that the notice being in too strict conformity with the Form No. 11 given in Schedule B. to 6 Vict. c. 18, contained a misdescription which was fatal to its validity: *Tudball v. Bristol*, 7 Scott, N. R. 486; 5 M. & G. 5; 1 Lutw. 7; 13 L. J. C. P. 49; 7 Jur. 1041; B. & Arn. 8.

*Postmaster's duties with regard to stamped duplicates may be legally performed by his managing clerk.*

BOROUGH OF BRADFORD. By section 100 of 6 Vict. c. 18, it is enacted, that persons desirous of sending notices of objection by post shall deliver the same, duly directed, open and in duplicate, to the *postmaster* of any post-office, &c., and that the *postmaster* shall compare the notice and duplicate, and, on being satisfied that they correspond, shall forward one by post, and return the other to the party bringing the same, duly stamped, and that the production by the party, who posted such notice, of

such stamped duplicate shall be evidence of the notice having reached the person to whom it was directed, in the ordinary course of post.

A notice of objection, directed to a voter for the borough of Bradford, was delivered, open and in duplicate, to the postmaster's *managing clerk*, instead of the postmaster himself, who was absent from Bradford when the notice was delivered.

The duties prescribed by section 100 of the above-mentioned Act, as well of comparing the notice with the duplicate, as of stamping and returning the latter to the party bringing the same, were performed by the *managing clerk*, and not by the postmaster himself.

The stamped duplicate was produced at the revision court by the party who posted the notice, in order to prove that such notice had reached the person to whom it was directed, in the ordinary course of post.

Held, that the postmaster's duties being ministerial, the performance of them by his *managing clerk* was a sufficient compliance with the statute, and that, consequently, the stamped duplicate was admissible for the purpose for which it was tendered: *Allan v. Waterhouse*, 8 Scott, N. R. 68; 1 Lutw. 92; 13 L. J. C. P. 129; 8 Jur. 426.

*Production of stamped duplicate notice of objection by objector himself, a good production within section 100 of 6 Vict. c. 18, although notice was posted by his clerk.*

BOROUGH OF TOTNES. By section 100 of 6 Vict. c. 18, it is enacted, that persons desirous of sending notices of objection by post shall deliver the same, duly directed, open and in duplicate, to the postmaster of any post-office, &c., and that the postmaster shall compare the notice and duplicate, and, on being satisfied that they correspond, shall forward one by post, and return the other to the party

bringing the same, duly stamped, and that *the production by the party who posted such notice of such stamped duplicate* shall be evidence of the notice having reached the person to whom it was directed, in the ordinary course of post.

A notice of objection addressed to a voter, and the duplicate thereof, were delivered by the objector to his clerk to take to the post-office. The clerk immediately took them away, and shortly returned with the duplicate stamped with the post-office stamp, "21st August (a), 1844."

In the absence of the clerk, through illness, from the revision court, the duplicate was produced by the objector himself.

Held, that this was evidence that due notice of objection had been given, within section 100 of 6 Vict. c. 18: *Cuming v. Toms*, 8 Scott, N. R. 827; 7 M. & G. 29; 1 Lutw. 151; 14 L. J. C. P. 54; 8 Jur. 1052.

*Notice of objection and stamped duplicate thereof must be signed by objector personally.*

BOROUGH OF TOTNES. A document, purporting to be the stamped duplicate of an original notice of objection (to the party), posted pursuant to section 100 of 6 Vict. c. 18, was tendered in evidence under that section. It corresponded in all respects with the original, except that, whereas the latter had been signed by the objector himself, the document in question had been signed by another with the name of the objector, by his direction, and in his presence.

Held, that the document was inadmissible—

1. Because being a notice of objection within the meaning of section 17 of 6 Vict. c. 18, it had not the personal signature of the objector, which was rendered essential by that section for every notice of objection.

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(a) This was within the time for service enacted by 6 Vict. c. 18, s. 7; see as to alteration of date, note (a), *ante*, on p. 236.

2. Because, not being absolutely identical with the posted notice, it was not a duplicate thereof, as required by section 100: *Toms v. Cuming*, 8 Scott, N. R. 910; 7 M. & G. 88; 1 Lutw. 200; 9 Jur. 90; 14 L. J. C. P. 67; B. & Arn. 347.

*If objector's name be mis-spelt in list, he need not adopt mistake in his notice of objection, provided the name be so stated in list as to be commonly understood to be that of objector—whether it be so or not, a question of fact for revising barrister.*

BOROUGH OF WENLOCK. An objector whose name was William Nicholas, but who through the negligence of the overseers, appeared on the Madeley list of voters under the name of “William Nickless,” signed his notice of objection (to the party) thus:—

“William Nicholas, of Colebrook Dale, in the parish of Madeley, on the list of voters for the parish of Madeley.”

The name of “William Nicholas” sent by the objector was on the Madeley list of claimants.

The revising barrister held the notice valid, and, the objection prevailing, expunged the name of the person objected to from the list.

Held, that the validity of the notice depended upon whether the objector's name had been so stated on the list of voters as to be commonly understood to mean “William Nicholas,” and that this was a question of fact for the revising barrister, and not for the court.

The appeal was accordingly dismissed: *Hinton v. Hinton*, 8 Scott, N. R. 995; 7 M. & G. 163; 1 Lutw. 259; 9 Jur. 91; 14 L. J. C. P. 58; B. & Arn. 421.



*Foot note to Form No. 10, Schedule B. to 6 Vict. c. 18, held not to apply to notice of objection to voter (a), nor to notice of objection to overseers in the city of London, because, although there are more lists than one in the city, only one is made out by the overseers.*

CITY OF LONDON. Q. was objected to on the list of voters for the city of London.

The notice of objection to the overseers was as follows:—

“To the overseers of the parish of St. Anne and St. Agnes, in the city of London.

“I hereby give you notice, that I object to the name of Patrick Quigley being retained in the list of persons entitled to vote in the election of members for the city of London.

“Dated this 16th day of August, 1844.

“(Signed) ROBERT THOMAS PERKINS,  
“11, Meredith street, Clerkenwell.

“On the list of voters for the Company of Patten Makers.”

The notice of objection to the voter was as follows:—

“To Mr. Patrick Quigley, 6, Four-dove court.

“I hereby give you notice, that I object to your name being retained on the list of persons entitled to vote in the election of members for the city of London.

“Dated this 16th day of August, 1844.”

(Signed) as above.

In the city of London there are the lists of freemen and liverymen, made out by the clerks of the respective companies, and the lists of £10 occupiers made out by the overseers.

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(a) See now the Parliamentary and Municipal Registration Act, 1878, Schedule, Form I., Nos. 1 and 2, *note*.

There are as many of these latter lists as there are parishes in the city.

Held, that the note at the foot of form No. 10, in schedule B. to 6 Vict. c. 18, did not apply to form No. 11 in that schedule, and only to form No. 10 in those cities and boroughs, where the overseers made out more lists than one, and that, consequently, the notices of objection in the above case were good, without specifying the particular list or parish to which the objection referred: *Wansey v. Perkins* (Quigley's case), 8 Scott, N. R. 954; 7 M. & G. 127; 1 Lutw. 235; 14 L. J. C. P. 60; B. & Arn. 386; 9 Jur. 113.

*Notice not vitiated by insertion of superfluous words, if they be not calculated to mislead.*

BOROUGH OF TAUNTON. There were two lists for the borough made out by the overseers, one a list of £10 occupiers, the other, a list of potwallers.

A potwaller, according to the usage of the borough, was considered to be "one, whether a householder or lodger, who had the sole dominion over a room with a fireplace in it, and who furnished and cooked his own diet at his own fireplace, or at some other place within the same house, at which fireplace he had a legal right so to do, and who also had actually cooked his diet at such fireplace."

In the list of potwallers, the names, places of abode, and qualifications of the voters were inserted, and the nature of the qualification was described as "a potwaller."

In the list of occupiers, the name of the appellant was entered as follows:—

Allen, John. | East Street. | Dwelling-house. | East Street.

His name was not on the potwallers' list, or on the list for any other parish within the borough, than that in which the dwelling-house above described was situate.

The following notice of objection had been duly served upon him.

“To Mr. John Allen, of East Street, Southside.

“I hereby give you notice, that I object to your name being retained on the list of persons entitled to vote *as householders* in the election of members for the borough of Taunton.

“Dated this 23rd day of August (a), 1844.

“(Signed) THOMAS HOUSE,  
“of Silver street, Taunton.”

“On the list, &c.”

The words “as householders” were interlined.

Held that, the insertion of the words “as householders” not being calculated to mislead, the notice was sufficient: *Allen v. House*, 8 Scott, N. R. 987; 7 M. & G. 157; 1 Lutw. 255; 14 L. J. C. P. 79; 9 Jur. 230; B. & Arn. 415.

*Where overseers made out two lists, it was held that notice of objection (to overseers) must specify list to which objection referred, although name objected to appeared in one list only. Publication by overseers of list of objections, no waiver of informality of notice.*

CITY OF LICHFIELD. In the city of Lichfield it was the duty of the overseers to make out and publish two lists of voters, one of £10 occupiers, and the other of persons (not freemen) having reserved rights.

The name of the respondent appeared in the list of £10 occupiers *only*.

A notice of objection delivered to the overseers was, “I object to the name of T. A.” (the respondent) “being retained in the list of persons entitled to vote in the election of members for the city of Lichfield.”

In the list of objections published by the overseers

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(a) See as to alteration of date for service of notices of objection, note (a), *ante*, on p. 236.

the respondent was described as in the list of £10 occupiers.

Held, that the notice was bad for not specifying the particular list to which the objection referred, as directed in the note to Form 10 in Schedule B. to 6 Vict. c. 18, and that the defect was not cured by the overseers' publication of the objection: *Barton v. Ashley*, 2 C. B. 4; 1 Lutw. 307; 15 L. J. C. P. 36; B. & Arn. 518.

*Validity of service through the post, not affected by the fact of delivery in the ordinary course of post falling on Sunday.*

CITY OF ROCHESTER. A notice of objection in the proper form, and duly directed, was posted at Chatham, on Saturday, 23rd August (a). The day on which the notice would in the ordinary course of post have been delivered, was Sunday 24th.

It was objected that the notice was invalid by reason that the service thereof was effected on Sunday (b).

The revising barrister decided in accordance with this view.

But the court reversed his decision: *Colvill v. Lewis*, 2 C. B. 60; 1 Lutw. 380, note; B. & Arn. 608.

*Notices of objection signed by objector with his actual place of abode, which differed from that appearing against his name in list, held a sufficient compliance with 6 Vict. c. 18.*

BOROUGH OF DARTMOUTH. An objector signed his notices of objection thus:—

“ John Brooking,

“ Of Higher street, Dartmouth, on the list  
of voters for the parish of St. Saviour's.”

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(a) See as to alteration of date for service of notices of objection, note (a), ante, on p. 236.

(b) The case does not expressly find that the notice reached the voter's house on Sunday; nor does it appear that a stamped duplicate was produced.

The objector's place of abode was stated in the St. Saviour's list of voters to be "New road." He had offices in New road, but did not live there, either at the time of the publication of the list of voters, or when the notices of objection were served. His true place of abode was that stated in the notices of objection.

Held (MAULE, J., *dissentiente*), that the notices were sufficient (a): *Knowles v. Brooking*, 2 C. B. 226; 1 Lutw. 461; 15 L. J. C. P. 197; 10 Jur. 289.

*Description of objector's place of abode in notice of objection need not be identical with description thereof in list.*

NEW SARUM. The parliamentary borough of New Sarum comprised, among other parishes, part of the parish of Fisherton Anger.

An objector signed his notice of objection (to the voter) thus:—

"Charles Adey,

"Of the parish of Fisherton Anger, in the said borough, on the list of voters for the parish of Fisherton Anger."

The objector's name appeared on the Fisherton Anger list of voters as follows:—

|               |  |                   |  |                      |  |                   |
|---------------|--|-------------------|--|----------------------|--|-------------------|
| Charles Adey. |  | Fisherton street. |  | House and<br>Garden. |  | Fisherton street. |
|---------------|--|-------------------|--|----------------------|--|-------------------|

Fisherton street was one of several streets or places in the parish of Fisherton Anger. There was no other person of the name of Charles Adey on the Fisherton Anger list.

It was objected at the revision court, that the notice was insufficient by reason of the objector's

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(a) Although the question of the *sufficiency* of the notices was the only one before the court, it is clear from the decision, that an objector has no option but to give his true place of abode; see the observations of the court in *Melbourne v. Greenfield*, 7 C. B., N. S. 1.



place of abode not being described therein as described in the list of voters.

The revising barrister having held the notice sufficient,

The court (in accordance with *Knowles v. Brooking*, *supra*), affirmed the decision: *Wills v. Adey*, 2 C. B. 246; 15 L. J. C. P. 205; 1 Lutw. 481, *note*; B. & Arn. 782.

*Although objector on list of freemen could not literally comply with Form No. 11 in Schedule B. to 6 Vict. c. 18, it was held that he was, nevertheless, required by the statute to specify in notice of objection the list in which his name appeared.*

BOROUGH OF LANCASTER. An objector described himself in his notice of objection (to the voter) thus:—

“Richard Farrer,

“Canal side, near Penny street, cotton manufacturer, Lancaster; *on the list of voters for the borough of Lancaster.*”

The register of voters for the borough of Lancaster was composed of four separate lists, viz., one of £10 householders for each of the three townships in the borough, made out by the respective overseers, and one list of freemen of the borough at large, made out by the town clerk.

The objector's name was on the last-mentioned list, with his place of abode, as stated in the notice.

Held,

1. That, although the notice of objection could not, by reason of the objector being on the list of freemen, be in literal compliance with Form No. 11 in Schedule B. to 6 Vict. c. 18, it was, nevertheless, insufficient, for not specifying the particular list in which the objector's name was to be found;

2. That the defect in the notice was not an “inaccurate description,” and, therefore, was not cured by section 101 of the statute: *Eidsforth v. Farrer*, 4

C. B. 9; 1 Lutw. 517; 16 L. J. C. P. 132, sub tit. *Farrer v. Edsworth*; 10 Jur. 1012, sub tit. *Farrer v. Edsworth*.

*The statement of the year of our Lord, an essential addition to date of notices of objection.*

BOROUGH OF DARTMOUTH. Notices of objection (to the overseers, and the party) were signed by the objector on 22nd August (a), 1846 (the year of the revision), and were dated thus:—"Dated this 22nd August" (a).

Held, that the non-insertion of the year of our Lord was fatal to the validity of the notices: *Beenlen v. Hockin*, 4 C. B. 19; 1 Lutw. 526; 10 Jur. 1059; 16 L. J. C. P. 49; 8 L. T. 143.

*Service of notice of objection on a parish officer who had not joined in signing the list of rotors, held, nevertheless, a good service.*

BOROUGH OF DARTMOUTH. The list of voters for the borough, made out by the overseers for 1846 (the year of the revision), was signed by three of the overseers, and one of the churchwardens.

A notice of objection was served upon another churchwarden, who had not signed the list.

Held, that the notice was well served: *Beenlen v. Hockin*, 4 C. B. 19; 1 Lutw. 526; 16 L. J. C. P. 49; 10 Jur. 1059.

*Service of notice of objection by leaving it at voter's qualifying premises (not his place of abode), held insufficient, although overseers had wrongly stated his place of abode in list.*

BOROUGH OF BEWDLEY. The overseers had inserted the respondent's name in the list as follows:—

|                    |  |               |  |            |  |           |
|--------------------|--|---------------|--|------------|--|-----------|
| Greensill, Edward. |  | Lower Mitton. |  | Office and |  | Lichfield |
|                    |  |               |  | Wharf.     |  | street.   |

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(a) See as to alteration of date for service of notices of objection, note (a), *ante*, on p. 236.

A notice of objection, addressed to the respondent at Lower Mitton, was left at the office and wharf, which were situate at Lower Mitton.

The respondent had formerly resided at Lower Mitton, but had ceased to do so when the notice was served for several years.

He had never lived at the office and wharf.

Held, that the objector had failed to comply with 6 Vict. c. 18, s. 17, and that, consequently, the service of the notice was insufficient (a): *Allen v. Greensill*, 4 C. B. 100; 1 Lutw. 592; 16 L. J. C. P. 142; 11 Jur. 476.

*A notice of objection (to a voter for Cheltenham) in which objector gave, as his place of abode, the street and number of house where he resided, without adding the town or parish, was held prima facie sufficient.*

BOROUGH OF CHELTENHAM. A notice of objection was in the following form:—

“To Mr. C. S., 1, Olney place.

“I hereby give you notice that I object to your name being retained in the list of persons

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(a) CRESSWELL, J., is reported in *Lutwyche* to have said in the argument: “If the objector had left the notice at the respondent’s former place of abode at Lower Mitton, he would have brought himself within the words of the Act,” 1 Lutw. 594. But the judgment of the court points to the opposite conclusion. WILDE, C. J., in delivering judgment, said, “When the Act of parliament comes to prescribe the duty of the objector, and requires him to serve his notice of objection in one of three different modes, I apprehend it is in the power of the objector to select which he pleases. If he chooses to select the particular mode of service which is described in the 17th section by the words ‘cause to be left at the place of abode of the person objected to,’ he must take care to see that the place at which he serves the notice is the party’s place of abode: and he has no just ground for contending that the notice has been duly served there, because he can show that the overseers have made a mistake, and have supposed that place to be the residence of the voter, when in fact it was not. He may always guard himself against the effect of any such mistake by adopting either of the other two modes of service, namely, personal service, or sending the notice by post according to the directions of the Act,” 1 Lutw. 596, 597.

entitled to vote in the election of a member for the borough of Cheltenham.

“Dated, &c.

“(Signed) JOHN FLATCHER, of 5, Sherborne street, on the list of voters for the parish of Cheltenham.”

Held, that the description “5, Sherborne street,” meant “5, Sherborne street, Cheltenham,” and was *prima facie* sufficient (a): *Sheldon v. Fletcher*, 5 C. B. 14; 2 Lutw. 11; 17 L. J. C. P. 34; 11 Jur. 949; 10 L. T. 136.

*Service of notice of objection by leaving it at voter's residence (as stated in list) between 9 and 10 p.m. on 25th August (b), under circumstances affording no presumption that notice duly reached voter, having been held by revising barrister to be insufficient, the court affirmed his decision.*

BOROUGH OF BEWDLEY. A notice of objection was attempted to be served in the following manner:—A man, on behalf of the objector, went to the place of abode (as described in the list) of the person objected to, between 9 and 10 in the evening of 25th August (b), 1847 (the year of the revision), and knocked at the usual entrance door several times, but

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(a) Whether or not the description of an objector's place of abode is sufficient, may either be a matter of law or of fact, according to the circumstances of each particular case. WILDE, C. J., in delivering his judgment in the above case, explains the distinction thus:—“Suppose an objector in London were to describe himself of King street, simply, that would be a description of his place of abode from its extreme generality so manifestly insufficient, that a decision upon it might be reviewed by this court as a matter of law. But if the description was so particular and defined, as to be as generally understood as the one supposed would be likely to be misunderstood, then the question would be for the barrister; and his decision upon it could not be inquired into by this court, because his decision would in such case be pronounced on a matter of fact;” 17 L. J. C. P. 37. See further, as to the jurisdiction of the court in relation to matters of law and matters of fact, the observations of the court in *Norris v. Pilcher*, L. R. 4 C. P. 417, 420, 421, 422.

(b) See as to alteration of date for service of notices of objection, note (a), *ante*, on p. 236.

no one answered. He thereupon put a due notice of objection inside the door and left it there. This was the only occasion on which he attempted to serve the notice.

The revising barrister decided that there was no sufficient service of the notice of objection, on the ground that the time and mode of service was unreasonable, and that a further attempt to leave the notice with some person at the voter's house should have been proved.

The court considered that the question was one of fact (*a*) for the revising barrister, but added that he had correctly determined it: *Watson v. Pitt*, 5 C. B. 77; 2 Lutw. 73; 17 L. J. C. P. 143; 12 Jur. 121; 10 L. T. 418.

*Assistant overseer appointed in general terms under 59 Geo. III. c. 12, s. 7, held to be an "overseer" within 6 Vict. c. 18.*

*Service on him of notice of objection by leaving it at his place of abode, held not to be invalidated by the fact of such service taking place between 11 and 12 at night on 25th August (b).*

**BOROUGH OF HARWICH.** A notice of objection, viz., that required by section 17 of 6 Vict. c. 18 to be given to "the overseers who shall have made out the list" in which the name of the person objected to is inserted, was left at the place of abode of an assistant overseer at 11.20 p.m. on 25th August (*b*).

There were two regularly appointed overseers for the parish of Dovercourt (the parish to which the objection related) for the year 1848 (the year of the revision), and they together made out and signed the list of voters and list of persons objected to.

(*a*) MAULE, J., in referring to the above case in *Points v. Attwood*, said: "*Watson v. Pitt* does not decide that the sufficiency of the service is always a question of fact." For further observations of that learned judge on this point, see note on the next page.

(*b*) See as to alteration of date for service of notices of objection, note (*a*), *ante*, on p. 236.



The assistant overseer, who had been appointed to act as such about two years previously, and had continued to do so ever since, took no part in making out, and did not sign, either of the lists. His appointment, which had not been confirmed by the Poor Law Commissioners, was made under 59 Geo. III. c. 12, s. 7, and was in general terms, and he had, by virtue of such appointment, habitually discharged all the ordinary duties of the overseers.

The notice of objection left at the abode of the assistant overseer was acted on by the overseers, who inserted the name of the person objected to in the list of objections.

Held,

1. That the appointment having been made under 59 Geo. III. c. 12, s. 7, the confirmation thereof by the Poor Law Commissioners was not essential to its validity.

2. That the assistant overseer having been appointed in general terms to perform all the duties of an overseer was, by virtue of section 101 of 6 Vict. c. 18, one of the overseers whose duty it was under section 13 to make out a list of persons entitled to vote, and, consequently, that the service on him of the notice of objection was a sufficient compliance with section 17, although he had not personally interfered in making out the list.

3. That the lateness of the hour at which the notice was left at the assistant overseer's place of abode did not invalidate the service (*a*): *Points v.*

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(*a*) Per MAULE, J., in the above case:—"I think it may be fairly presumed from the statement in this case, that the door was opened, and that the notice was left with somebody in Cooper's" (the assistant overseer's) "house. It is not to be understood as a general proposition that questions of fact are in all cases questions of fact for the decision of the revising barrister. A notice might be delivered at 12 o'clock at night to the wife of the party for whom it was intended, and that would be enough. On the other hand, a letter may be put inside a door in such a manner that there is no reasonable probability of its reaching, in due course, the party to whom it is addressed. It might be put under the door mat." 2 Lutw. 122, 123.

*Attwood*, 6 C. B. 38; 2 Lutw. 117; 18 L. J. C. P. 19; 13 Jur. 83.

*Where revising barrister decided that description of objector's place of abode was bad, such description being neither bad on the face of it, or shown by evidence to be insufficient in point of fact, the court reversed his decision.*

BOROUGH OF KIDDERMINSTER. A notice of objection was in the following form:—

“I hereby give you notice that I object to your name being retained on the list of persons entitled to vote in the election of a member for the borough of Kidderminster.

“Dated, &c.

“(Signed) THOS. POWELL, of Hall street, on the list of voters for the borough of Kidderminster.”

The borough of Kidderminster consisted of two parishes, called respectively the borough, and the foreign of the borough of Kidderminster, and there were separate lists of voters for each. There were only these two parishes in the town of Kidderminster. The towns of Bewdley, Stourport, Stourbridge, and Kniver were within seven miles of Kidderminster.

The objector's place of abode was situate in a Hall street, in Kidderminster. His name was on the list of voters for the borough of Kidderminster, and his place of abode, and the local description of his qualification were therein stated to be “Hall street.”

It was contended before the revising barrister that the notice was bad for not stating in what parish or town “Hall street” was situate, but there was no evidence to show that the notice was insufficient in point of fact.

The revising barrister held that the notice was bad, on the ground that it did not give a sufficient statement of the objector's place of abode, in compliance with 6 Vict. c. 18, s. 17.

The court reversed the decision: *Powell v. Caswell* (not reported except in relation to a point of practice on appeal).

*Objector's description of himself as "on the list of freemen for the city of Carlisle," instead of "on the list of freemen entitled to vote in the election of members for the city of Carlisle," held sufficient.*

CITY OF CARLISLE. An objector described himself in his notice of objection as being "on the list of freemen for the city of Carlisle."

The town clerk made out and published each year a list, the heading of which was "The list of freemen of the city of Carlisle entitled to vote in the election of members for the said city." The objector's name appeared on that list.

The town clerk also made out (but did not publish) another list of the freemen of Carlisle, which was the roll of all the freemen of the city, made out and kept for municipal purposes, in pursuance of section 5 of 5 & 6 Will. IV. c. 76, and called the freemen's roll.

Held (*dissentiente* MAULE, J.), that the notice of objection was sufficient under section 17 of 6 Vict. c. 18, inasmuch as any person of ordinary intelligence would understand the words "on the list of freemen for the city of Carlisle" to mean "on the list of freemen entitled to vote in the election of members for that city:" *Feddon v. Sawyers*, 12 C. B. 680; 2 Lutw. 246; 22 L. J. C. P. 15; 20 L. T. 127; 17 Jur. 141.

*The words "list of persons entitled under the Reform Act to vote," &c., held sufficiently descriptive of £10 occupiers' list, to distinguish it from that of persons possessing reserved rights.*

CITY OF WESTMINSTER. A notice of objection was as follows:—

"To the overseers of the parish of St. Clement Danes. I hereby give you notice that I object to the name of Alford, James, being

retained on the list of persons entitled *under the Reform Act* to vote in the election of members for the City of Westminster.

“Dated, &c.

“ (Signed), &c.”

In the city of Westminster the overseers made out two lists of voters, one of occupiers, according to Form No. 3 in Sched. (B.) to 6 Vict. c. 18, and the other of voters in respect of reserved rights, according to Form No. 4 in the same Schedule. The name of James Alford appeared only in the former list.

The note to Form No. 10 in the above-mentioned schedule contains the following direction:—“If more than one list of voters, the notice of objection should specify the list to which the objection refers.” It was contended at the revision court that the words “*under the Reform Act*” introduced into the notice of objection in question were not a sufficient compliance with the above direction.

The revising barrister having decided that the notice was insufficient,

The court reversed the decision (*a*): *Huggett v. Lewis*, 15 C. B. 245; K. & G. 1; 24 L. J. C. P. 38; 1 Jur., N. S. 19; 3 W. R. 109; 24 L. T. 133.

*Notice of objection sent by post (as directed by statute), not vitiated by the fact of postmaster having received it out of the duly appointed business hours.*

**BOROUGH OF ASHBURTON.** An objector delivered a notice of objection (to the party), in duplicate, to the postmaster of the post office at Ashburton, at 6 a.m. on Monday, 25th August (*b*), 1856 (the year of the revision).

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(*a*) MAULE, J., is reported to have said in the course of the argument in the above case:—“The notice of objection to overseers seems to be a thing between the objector and the overseers. I do not see what right a voter has to take the objection.” But it was observed by WILLIAMS, J., that section 40 of 6 Vict. c. 18 makes the notices a condition precedent to the right to expunge the name; see K. & G. 4.

(*b*) See as to alteration of date for service of notices of objection, note (*a*), *ante*, on p. 236.

He produced before the revising barrister one of the duplicates, bearing the Ashburton post mark of 25th August (*a*), 1856, and he proved that the notice would, in the ordinary course of post, have been delivered on that day at the place of abode to which it was addressed.

During August, 1856, the hours for registering letters, and for receiving the duplicate notices under 6 Vict. c. 18, s. 100, were (on week days) from 7 a.m. until 3.50 p.m.; and it was not compulsory on the postmaster to register any letter, except within the above-named hours. Public notice was given at the post office that these were the hours of business.

It was contended before the barrister, that the objector having failed to prove that he had delivered the notices to the postmaster within the appointed business hours, as directed by section 100 of 6 Vict. c. 18, could not avail himself of the stamped duplicate as evidence, under that section, of due notice having been given to the person objected to.

The revising barrister decided that, the postmaster having consented to receive the notices out of business hours, although not bound to do so, the statute had been sufficiently complied with, and the notice of objection proved.

The court affirmed the decision: *Hannaford v. Whiteray*, 1 C. B., N. S. 53; 26 L. J. C. P. 75; K. & G. 61; 28 L. T. 143; 3 Jur., N. S. 673; 5 W. R. 75.

*Notice of objection sent by post (as directed by statute), not vitiated by the fact of postmaster having received it out of the duly appointed business hours.*

BOROUGH OF ASHBURTON. Notices of objection were delivered in duplicate to the postmaster of the post office at Ashburton at 6 p.m. on Sunday, 24th August (*a*), 1856 (the year of the revision). The

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(*a*) See as to alteration of date for service of notices of objection, note (*a*), *ante*, on p. 236.



duplicates produced before the barrister had the Ashburton post mark of 24th August (*a*), and it was proved that they would, in the ordinary course of post, have been delivered on 25th August (*a*), at the places of abode to which they were addressed.

During August, 1856, the Ashburton post office (in accordance with a public notice) was opened to the public on Sundays from 7.30 a.m. until 10 a.m., and it was not compulsory on the postmaster to register any letter on Sunday, except within those hours.

The same objection was taken as in *Hannaford v. Whiteway*, *supra*; the barrister having come to the same conclusion as in that case,

The court affirmed the decision: *Paddon v. Whiteway*, 1 C. B., N. S. 62; 26 L. J. C. P. 75, 77; 3 Jur., N. S. 673, 674.

*Notice of objection to borough voter sent by post in the statutory mode, need not on the face of it show voter's place of abode.*

BOROUGH OF MACCLESFIELD. A stamped duplicate notice of objection was duly addressed *on the back* to the voter at his place of abode: but it did not show *on the face of it* the voter's place of abode.

Held, that the notice, being in accordance with Form No. 11 in Schedule B. to 6 Vict. c. 18, was a good notice: *Barclay v. Parrott*, 1 C. B., N. S. 49; K. & G. 59; 26 L. J. C. P. 77; 3 Jur., N. S. 672; 5 W. R. 75.

*Objector may send notice of objection to overseers by post in the ordinary way (without adopting statutory mode), but in that case it must appear that notice reached overseers in due time.*

CITY OF WESTMINSTER. The revising barrister having called upon an objector to prove the service

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(*a*) See as to alteration of date for service of notices of objection, note (*a*), *ante*, on p. 236.

of his notice of objection on the overseers of the parish of St. Anne, it appeared that this notice was inclosed in the same cover with others intended to be served in the same parish; that the cover was addressed, "To the overseers of the parish of St. Anne, in the city of Westminster," and that a parcel of notices thus made up was despatched by post. The regulations as to posting prescribed by section 100 of 6 Vict. c. 18, were not followed; but the notice of objection reached the overseers in due time, and was by them included in their published list of objections.

Held, that the objector was not bound to adopt the statutory mode of posting pointed out by section 100 of the statute, and that, the notice having reached the overseers in due time, he had sufficiently complied with section 17 (*a*): *Smith v. Huggett*, 11 C. B., N. S. 55; K. & G. 434; 31 L. J. C. P. 38; 8 Jur., N. S. 617; 5 L. T., N. S. 425; 10 W. R. 131.

*Objector must describe himself in his notices of objection as of his true place of abode; and if he has two places of abode, he may state either. Whether, or not, a house of which objector was tenant at will was properly stated to be his place of abode, held to be a question of fact, depending on the circumstances of the particular case.*

**BOROUGH OF DEVONPORT.** The name of an objector (the appellant) appeared in notices of objection (to the overseers and the voter) as follows:—

"James Webb Curtis, of 25, Clowance street, on the list of voters for the parish of Stoke Damerell."

(*a*) BYLES, J., is reported to have doubted whether section 100 applied to notices of objection to overseers; however, the court, in *Bishop v. Helps*, *ante*, pp. 236, 237, held, that that section did, by virtue of section 101, apply to such notices, if they were directed to the overseers at their "usual place of abode."

The appellant had lived at 25, Clowance street for two years before February, 1861 (the year of the revision).

The house was his mother's, but much of the furniture was his; and it was verbally agreed that he should occupy the house as tenant at will, rent free, and that his mother should live with him.

In February, 1861, he removed with his wife to 94, Fore street, and had there carried on the trade of a licensed victualler ever since.

It being necessary for the conduct of the business that the appellant and his wife should live and sleep on the premises in Fore street, they had lived and slept there continuously from February, 1861, save that the appellant and his wife slept at 25, Clowance street one night, and the appellant himself slept there ten nights.

They were both living and sleeping at 94, Fore street when the notices of objection were signed (23rd August). The appellant, however, continued in the occupation of 25, Clowance street, and intended returning to live there whenever it might suit his convenience to do so.

After the appellant's removal to Fore street, his mother had no other permanent home than 25, Clowance street, and she occasionally resided there, and during such residence the appellant kept a servant to wait upon her. But she frequently lived elsewhere, and during her absence from 25, Clowance street, no servant was kept there, so that it often happened that the house was left for two or three weeks at a time without anyone living in it, and such was the case during July, August, and September, 1861.

The revising barrister was of opinion,

1. That the appellant was required to state his true place of abode at the time of signing the notices.

2. That if he had two *bonâ fide* places of abode, he might state either.

3. That 25, Clowance street, was not shown to

have been his place of abode when the notices were signed, and, consequently, the notices were bad.

The court affirmed the decision, adding that, whether or not 25, Clowance street, was the objector's place of abode, as well as 94, Fore street, when the notices were signed, was rather a question of fact than law, and that the revising barrister was not bound in law to find Clowance street to be the true place of abode, by reason of the tenancy at will, under the circumstances stated: *Curtis v. Blight*, 11 C. B., N. S. 95; K. & G. 475; 31 L. J. C. P. 48; 5 L. T., N. S. 450; 8 Jur., N. S. 619; 19 W. R. 172.

*Notice of objection (to the party), wherein objector described himself in literal compliance with Form No. 11 in Schedule B. to 6 Vict. c. 18, held sufficient, although overseers made out two lists for the parish, viz., one of £10 occupiers, and another of possessors of reserved rights.*

**BOROUGH OF BEDFORD.** The appellant (an objector) described himself in his notice of objection (to the party) as of "Water Lane, St. Paul, Bedford, on the list of voters for the parish of St. Paul."

There were two lists made out by the overseers for the parish of St. Paul, viz., a £10 list and a reserved rights list.

It was objected that the notice was bad, on the ground that the appellant had not specified therein the particular list on which his name was to be found.

The court, reversing the barrister's decision, held that the notice was good, being in literal compliance with Form No. 11, Schedule B. to 6 Vict. c. 18: *Samuel v. Hitchmough*, 13 C. B., N. S. 3; K. & G. 522; 32 L. J. C. P. 55; 7 L. T., N. S. 360; 11 W. R. 92; 9 Jur., N. S. 414.

*Where there were more districts than one in a borough, each having a separate list of voters, it was held that notices of objection were insufficient, for not stating distinctly in which list objector's name was to be found.*

BOROUGH OF KIDDERMINSTER. The ancient parish of Kidderminster consisted of the municipal borough of Kidderminster, the foreign of Kidderminster, and a hamlet (not within the parliamentary borough), each of which had its separate overseers and separate rates.

There were two lists of voters for the parliamentary borough of Kidderminster, one of persons entitled in respect of property occupied within the municipal borough, and the other of persons entitled in respect of property occupied within the foreign; the former was signed by the overseers of the municipal borough, the latter by the overseers of the foreign.

An objector (on the former list) described himself in his notices of objection to the overseers of the borough and foreign respectively, and to the party, as "on the list of persons entitled to vote in the election of a member for the borough of Kidderminster in respect of property occupied within the parish of Kidderminster."

Held, that the notices were insufficient, as they did not specify the list on which the objector's name was to be found: *Crowther v. Bradney*, 15 C. B., N. S. 536; H. & P. 63; 33 L. J. C. P. 70; 9 L. T., N. S. 444; 12 W. R. 176.



*Notice of objection (to the party) in the words "I object to the name of ——" (the name of the person objected to) "being retained," &c., instead of the words "I object to your name being retained," &c., held a sufficient compliance with section 17 and Form No. 11, Sched. B. of 6 Vict. c. 18.*

*Such notice held not to be vitiated by the fact that the christian and surnames in the body thereof were not written in same order as in the heading, such transposition not being misleading.*

CITY OF EXETER. A notice of objection (to the party) was in the following form:—

"To Mr. Sidney Rice Force.

"I hereby give you notice that I object to the name of Force Sidney Rice" (the name being stated as in the overseers' list) "being retained," &c., &c.

It was contended at the revision court that the notice was bad:—

1. Because it was not in literal compliance with Form No. 11 in Sched. B. of 6 Vict. c. 18.
2. Because the names in the heading of the notice were transposed in the body thereof.

In support of the first contention great stress was laid on the circumstance, that section 17 of 6 Vict. c. 18, requires the notice of objection (to the party) to be "according to the Form numbered 11, Sched. B.," omitting the words "or to the like effect," which occur in sections 15 and 17, in relation to other notices.

In support of the second contention it was urged, that the transposition of names was calculated to mislead.

It was found by the revising barrister, that there was no other person of the same name on any list of voters for the city of Exeter, and that the person objected to was not in fact misled, or likely to be so. He, therefore, decided that the notice was good.

Held, affirming the revising barrister's decision, that the notice satisfied the requirements of the statute, and that, if there was any inaccuracy, it was cured by section 101: *Force v. Floud*, 15 C. B., N. S. 543; H. & P. 56; 33 L. J. C. P. 71; 12 W. R. 174; 9 L. T., N. S. 508.

*Where objector in borough of D. (consisting of parish of S. D., and township of E. S., each having separate lists) described himself in notice of objection as "on the list of voters for the borough of D., and township of E. S.," held a sufficient description, within 6 Vict. c. 18, s. 17.*

BOROUGH OF DEVONPORT. Notices of objection to the overseers and the party were signed as follows:—

“Edward William Cole, of 69, Durnford street, on the list of voters for the borough of Devonport and township of East Stonehouse.”

It was objected, that it did not appear from these notices on what list the objector's name was to be found, and further, that there was in fact, no such list as that described in the notices.

The borough of Devonport consisted of the parish of Stoke Damerell, and the parish or township of East Stonehouse.

Each parish had distinct parish officers, and separate lists of voters; which separate lists were published by the churchwardens and overseers at the several places of worship in their respective parishes. The list published in Stoke Damerell was headed:—“List of persons entitled to vote for the borough of Devonport, in respect of property occupied within the parish of Stoke Damerell.” The list published in East Stonehouse was headed:—“List of persons entitled to vote for the borough of Devonport, in respect of property occupied within the township of East Stonehouse.”

On this list the objector's name appeared, with his place of abode as stated in the notice of objection.

There was no other Durnford street in the borough of Devonport than that in which the objector lived, and it was situate within the township of East Stonehouse.

The revising barrister decided that the notices fulfilled the requirements of section 17 of 6 Vict. c. 18, Sched. B., Forms Nos. 10 and 11.

The court affirmed the decision: *Oram v. Cole*, 18 C. B., N. S. 1; H. & P. 87; 34 L. J. C. P. 52; 13 W. R. 268; 10 Jur., N. S. 1206; 11 L. T., N. S. 451.

*Stamped notice of objection, produced under section 100 of 6 Vict. c. 18, not the less a duplicate because it differs from notice retained by postmaster by having the word "copy" at the top of it.*

CITY OF LONDON. Upon a duly stamped notice of objection (to the party) being produced at the revision court under section 100 of 6 Vict. c. 18, it was found to be headed with the word "copy."

The notice was so headed before it was taken to, and stamped at, the post office.

The notice left with the postmaster was not so headed.

Held, that the notice produced was not vitiated as a duplicate by the insertion of the word "copy" at the head thereof: *Benesh v. Booth*, 18 C. B., N. S. 111; H. & P. 223; 34 L. J. C. P. 99; 13 W. R. 271; 11 L. T., N. S. 479.

*Notice of objection (to the party) sent by post under section 100 of 6 Vict. c. 18, not vitiated by reason of the post town and county being added to voter's place of abode "as described in the list."*

CITY OF ROCHESTER. A. was described in the list of voters for the parish of Frindsbury as follows:—

|                   |  |                            |  |        |  |             |
|-------------------|--|----------------------------|--|--------|--|-------------|
| "Akenhead, James. |  | Canal road,<br>Frindsbury. |  | House. |  | Canal road. |
|-------------------|--|----------------------------|--|--------|--|-------------|

A notice of objection was sent by post under section 100 of 6 Vict. c. 18, addressed "Mr. James, Akenhead, Canal road, Frindsbury, *Rochester, Kent.*"

Held, that the addition of "*Rochester, Kent,*" to A.'s place of abode, as described in the list of voters, did not prevent the notice from being in compliance with the statute: *Cotton v. Prall* (Akenhead's case), L. R. 2 C. P. 86; H. & P. 355; 36 L. J. C. P. 67; 12 Jur., N. S. 1018; 15 W. R. 223; 15 L. T., N. S. 468.

*Notice of objection (to the party) sent by post under section 100 of 6 Vict. c. 18, not vitiated by reason of the county being added to voter's place of abode "as described in the list."*

CITY OF ROCHESTER. F. was described in the list of voters for the parish of Frindsbury as follows:—

|                     |               |        |                   |
|---------------------|---------------|--------|-------------------|
| Frankenstein, Leon. | St. Margaret, | House. | Cazeneuve street. |
|                     | Rochester.    |        |                   |

A notice of objection was sent by post, under section 100 of 6 Vict. c. 18, addressed "Mr. Leon Frankenstein, Cazeneuve street (a), St. Margaret, Rochester, *Kent.*"

Held, that the addition of "*Kent*" to F.'s place of abode as described in the list of voters, did not prevent the notice from being in compliance with the statute: *Cotton v. Prall* (Frankenstein's case), L. R. 2 C. P. 87, note; H. & P. 357, note; 12 Jur., N. S. 1019.

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(a) The following statement is appended to the report of this case in the Law Reports:—"It does not appear from the case that the voter's place of *abode* was in Cazeneuve street, and a very different question might have been raised; but this point of distinction" (*i.e.* between this and Akenhead's case) "was not brought in any way to the notice of the court."

*Objector entitled to insist on objection, although he may have published a notice of its withdrawal (a).*

CITY OF CARLISLE. Notices of objection having been duly served upon several voters, the objector published in the local paper of 31st August, a notice that he withdrew his objections. Afterwards he sent a notice to each voter, that the objection to him was not withdrawn, and that it would be necessary for him to attend before the revising barrister to answer it.

The objector appeared at the revision court in support of his objections, and proved the statutory notices: but it was contended on behalf of the voters objected to, that they ought not to be called on to prove their qualifications, as the notices of objection to their names had been withdrawn.

The revising barrister decided, that such notices had been withdrawn, and he, therefore, allowed the names to remain on the list, without requiring proof that the voters were qualified.

The court held, reversing the decision, that, on proof by the objector of his notices of objection, the revising barrister was bound by the terms of section 40 of 6 Vict. c. 18, to require the voters objected to to prove their qualifications; and, inasmuch as such notices were matters of public concern, he had no jurisdiction to inquire whether or not they had been withdrawn (a): *Proudfoot v. Barnes*, L. R. 2 C. P. 88; H. & P. 342; 36 L. J. C. P. 68; 12 Jur. 1017; 15 W. R. 222; 15 L. T., N. S. 439.

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(a) See now the Parliamentary and Municipal Registration Act, 1878, s. 27, sub-sect. 1, and the notices of withdrawal of objection enacted in Schedule 3, Form (N.) of the Registration Act, 1885.



*Whether notice of objection sufficiently describes objector's place of abode, a question of fact for revising barrister. If the description be such, that person objected to could easily find objector by inquiry, on going to the place stated, it is sufficient.*

CITY OF HEREFORD. The appellant described himself in a notice of objection as "Charles Henry Pilcher, of Bartonsham, on the list of voters for the parish of St. Owen."

His place of abode as stated in such list of voters was "Bartonsham." There had been from time immemorial, and still existed, in the parish of St. Owen, a farmhouse and farm called "Bartonsham."

A portion of the land formerly occupied with the said farm had recently been laid out in building allotments; and streets had been formed and houses built there, and the whole district had become known as Bartonsham; and the district so known consisted of four streets, some houses or blocks of houses within which had been distinguished by their owners as terraces, places, or villas, and there were altogether forty-two such terraces, places, or villas.

The objector lived at 1, Argyle place, Green street, which was in the district known as "Bartonsham."

It was objected that "Bartonsham" was too general a description of the objector's place of abode, and that the description thereof should have been "Green street," or "1, Argyle place."

The revising barrister found that a letter addressed "Charles Henry Pilcher, Bartonsham," would have reached the objector by post; and that the person objected to could, by inquiry at Bartonsham, have easily found the objector's residence, although not so easily by only knowing that such residence was in the district called "Bartonsham," as he would if he knew that it was in Green street, Bartonsham, or at 1, Argyle place, Bartonsham.

Under these circumstances, the barrister decided that the description was sufficient.

The court, affirming the decision, held, that the sufficiency of the description of the objector's place of abode was a question of fact (*a*) for the revising barrister, and that he had rightly found it to be sufficient in the present case: *Thackway v. Pilcher*, L. R. 2 C. P. 100; H. & P. 378; 36 L. J. C. P. 73; 15 L. T., N. S. 443; 15 W. R. 223.

*Where notice of objection to the party, though in strict compliance with Form No. 11 in Schedule B. to 6 Vict. c. 18, was in fact a misdescription, it was held insufficient.*

**BOROUGH OF MALDON.** The borough lists consisted of a list of freemen (comprising all freemen residing within the borough, or within seven miles thereof), and a list of occupiers for each of four parishes, of which that of St. Peter, Maldon, was one.

The respondent was on the freemen's list, wherein he was described as of St. Peter's, Maldon, but he was not on the occupiers' list for that parish. In a notice of objection (to the party), the respondent described himself as of "Full Bridge street, St. Peter, Maldon, *on the list of voters* for the parish of St. Peter, in the said borough."

Held, on the authority of *Tudball v. Bristol* (*ante*, p. 259), that the notice was insufficient: *Bright v. Devenish*, L. R. 2 C. P. 102; H. & P. 373; 36 L. J. C. P. 71; 15 W. R. 225; 12 Jur., N. S. 1019; 15 L. T., N. S. 471.

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(*a*) Whether a notice of objection describes on the face of it an objector's place of abode, is a question of law; whether the description, being sufficient in law, gives the requisite information, is a question of fact for the barrister. See *Sheldon v. Fletcher*, 5 C. B. 14, and the note to that case, *ante*, p. 271.

*Notices of objection stamped by objector with fac-simile of signature are sufficiently signed, within 6 Vict. c. 18, s. 17.*

BOROUGH OF LIVERPOOL. The respondent (an objector) had himself, by means of an instrument on which was engraved a fac-simile of his usual signature, impressed with his own hand his stamp on a notice of objection.

Held, that the notice of objection was "signed" by the objector, within the meaning of 6 Vict. c. 18, s. 17: *Bennett v. Brumfitt*, L. R. 3 C. P. 28; H. & P. 407; 37 L. J. C. P. 25; 16 W. R. 131; 17 L. T., N. S. 213.

*Where objector in the parliamentary borough of P. (consisting of six several places, of which the municipal borough of P. was one, each having a separate list of voters) described himself in notice of objection as "on the list of voters for the borough of P.;" held a sufficient indication that he was on the list for the municipal borough, although the words "borough of P." occurred in the first part of the notice, being there used for the parliamentary borough.*

BOROUGH OF PENRYN. The parliamentary borough of Penryn consisted of six several places, viz., the borough (municipal) of Penryn, the town of Falmouth, and the parishes of St. Gluvias, Mylor, Falmouth, and Budock. Each of these six places had separate overseers and rates, and separate lists.

An objector, whose name was on the list for the first of the above places, sent a notice of objection to a voter as follows:—

"To Mr. William Andrew, of Porham street, in the town of Falmouth.

"I hereby give you notice that I object to your name being retained on the list, for the town of Falmouth, of persons entitled to

vote in the election of members for the borough of Penryn.

“Dated, &c.

“Charles Moon, of St. Thomas street, Penryn, on the list of voters for the *borough of Penryn*.”

The revising barrister decided that the description of the objector did not sufficiently indicate on which of the six lists his name was to be found.

Held, reversing the decision, that the words “borough of Penryn” at the close of the notice referred to the municipal borough of Penryn, and were a sufficient description within the statute (6 Vict. c. 18): *Moon v. Andrew*, L. R. 4 C. P. 461; 1 H. & C. 75; 38 L. J. C. P. 97; 19 L. T., N. S. 452.

*A notice of objection (to overseers) to a borough voter, which did not specify in which of two lists the name of the person objected to appeared was, under very peculiar circumstances, held to be sufficient.*

**BOROUGH OF HORSHAM.** There were two lists of voters for the borough (consisting of only one parish), viz., a list of occupiers, and a list of possessors of reserved rights.

The appellant, on the former list, was objected to by the respondent, whose name was the only name on the latter.

The respondent in giving his notice of objection to the overseers did not specify the list to which the objection referred, as required by the note to Form 10, Sched. B. of 6 Vict. c. 18.

It was proved that the overseers knew to which list the objection was intended to apply, and that they were not in any way misled.

Held, that the peculiar facts of the case warranted the finding by the revising barrister that the notice of objection was sufficient: *Aldridge v. Medwin*, L. R. 4 C. P. 464; 1 H. & C. 67; 38 L. J. C. P. 45; 19 L. T., N. S. 453.

*Where objector in the borough of W. (consisting of three townships, each having a separate list) described himself in notice of objection as "on the list of voters for G. street, in the borough of W.," and it was found by the barrister, that such description would be commonly understood in the borough to designate the list for the township in which G. street was (wholly) situate: held that the description was sufficient.*

**BOROUGH OF WARRINGTON.** A notice of objection was served on the appellant, signed, "Samuel Dunbobbin, on the list of voters for Golborne street, in the borough of Warrington."

The borough consisted of three townships, one of them being Warrington. Each township had a separate overseer, and a separate list of voters, and the borough register was composed of these three lists. There was only one Golborne street in the borough. It lay wholly in the township of Warrington, and the description given in the notice was such as to be commonly understood in the borough to refer to the list for that township.

Held, that the notice, although not specifying the particular list in which the objector's name was to be found, as directed by 6 Vict. c. 18, s. 17, Sched. B., Form No. 11, was nevertheless sufficient, being such as to be "commonly understood," and, therefore, cured by section 101 of that statute: *Allen v. Geddes*, L. R. 5 C. P. 291; 1 H. & C. 413 (a).

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(a) S. C., *nom. Allen v. The Town Clerk of Warrington*, 39 L. J. C. P. 113; 18 W. R. 317; 22 L. T., N. S. 169.



*Service of notice of objection on overseers by service at  
“place for transacting parochial business.”*

*Semble, that a collector of poor rates (appointed under  
4 & 5 Will. IV. c. 76, s. 46) who, by consent of  
the overseers, performs their ordinary duties (including  
those connected with parliamentary registration),  
is an “overseer,” within 6 Vict. c. 18.*

BOROUGH OF BEDFORD. By section 101 of 6 Vict. c. 18, it is enacted that “the word ‘overseers,’ shall mean all persons who by virtue of any office or appointment shall execute the duties of overseers of the poor, by whatever name or title such persons may be called, and in whatsoever manner they may be appointed.”

The borough of B. consisted of five parishes, for which one collector of poor rates was appointed by the guardians under 4 & 5 Will. IV. c. 76, s. 46.

By the terms of his appointment his duties were “to assist the churchwardens and overseers” in the matters therein specified relating to poor rates, “and to obey all lawful orders and directions of the guardians, and of the majority of the churchwardens and overseers;” but by consent of the overseers he had been in the habit of discharging all their ordinary duties, including that of making out lists for revision purposes, and of attending the registration court.

*Semble, per Lord COLERIDGE, C. J., that such collector was an “overseer,” within 6 Vict. c. 18, ss. 17 and 101, on whom a notice of objection could be well served.*

By the same section a notice is sufficiently served on any one of the overseers if “left at his office, or other place for transacting parochial business.”

The collector discharged the overseers’ duties at an office, forming part of his dwelling-house, but having a distinct entrance.

Held, that a notice of objection served there, was served at the proper place within the above section, there being no other place within the borough of B.

where any parish business was transacted: *Green v. Mepham*, 2 H. & C. 458; 48 L. J. C. P. D. 92; 39 L. T., N. S. 450.

*Objector not required by note to Form (I.), Nos. 1 and 2 in Schedule of the Parliamentary and Municipal Registration Act, 1878, to specify in notice of objection the particular parochial list to which objection refers.*

CITY OF WESTMINSTER. A notice of objection was in the following form:—

“To Mr. Thomas Allen—

“I hereby give you notice that I object to your name being retained on the list of persons entitled to vote as lodgers at the election of members to serve in Parliament for the city of Westminster, on the following grounds” (which the notice then proceeded to state).

“Dated this 25th day of August, 1879.

“(Signed) JOSEPH MORTLOCK,  
“Of No. 6, Cambridge Villas,  
“Waterford Road, Fulham.  
“On the list of voters [for No. 7,  
“North Street], for the parish of  
“St. John the Evangelist (called  
“list No. 3).”

There were eleven parishes or precincts in the borough, each having its own overseers, and in ten of such parishes or precincts the overseers made out an old lodger list in pursuance of the provisions of section 22 of the Parliamentary and Municipal Registration Act, 1878.

It was objected at the revision court, and the revising barrister decided in favour of the objection, that the notice in question and similar notices in other cases were bad for not specifying “the list to which the objection referred,” within the meaning of the

note to Form (I.), Nos. 1 and 2 in the Schedule to the Parliamentary and Municipal Registration Act, 1878, it being contended that, in order to satisfy the requirement of that note, each notice of objection should have given the particular parish list in which the name of the person objected to appeared.

[The judgment of the court will be found at the end of the next case (the two cases having been argued together)] : *Mortlock v Farrer*, L. R. 5 C. P. D. 73; 1 Colt. Reg. Cas. 20; 49 L. J. C. P. D. 160; 41 L. T., N. S. 470; 28 W. R. 395.

**BOROUGH OF NOTTINGHAM.** Certain notices of objection (parliamentary and municipal), in the Forms Nos. 2 and 4 of Form (I.) of the Parliamentary and Municipal Registration Act, 1878, were objected to on the ground that they did not specify the "list to which the objections referred," as required by the notes to those forms respectively.

The parliamentary borough of Nottingham consisted of three parishes—viz., St. Mary, St. Peter, and St. Nicholas.

The municipal borough consisted of those parishes and certain other adjoining parishes or parts of parishes.

There were published in 1879 for each of the parishes of St. Mary, St. Peter, and St. Nicholas, the following lists :—A list of persons entitled, both as parliamentary voters and burgesses in respect of the occupation of property (Division 1), a list of persons entitled as burgesses, but not as parliamentary voters (Division 3), a list of old lodgers, and a list of freeholders.

The notices in question did not specify the list for any particular parish, as the list on which the name objected to would be found, but merely referred to the list of persons entitled to vote as occupiers, or as freeholders, or as lodgers, as the case might be, for the borough (parliamentary or municipal, as the case might be), generally.

The revising barrister having decided that the notices were bad in law for not specifying the particular parish list,

The court held, reversing the barrister's decisions in this and the preceding case (*Mortlock v. Farrer*), that the word "list" in the note to Form (I.), Nos. 1 and 2 (parliamentary) (a) in the Schedule of The Parliamentary and Municipal Registration Act, 1878, had the same meaning as in the note to Form 10, in Schedule B., of the Parliamentary Registration Act of 1843; that as "list" in the last-mentioned note could not (as explained by the court) refer to parish list, the legislature cannot have intended by the insertion of that word in the note to Form (I.) Nos. 1 and 2 in the Schedule of the Act of 1878 to enact that it should denote the parochial list; consequently, that the notices in question (parliamentary) (a) indicating, as they did, the franchise lists to which the objections respectively referred, were sufficient, with-

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(a) Although the question of the validity of the *municipal*, as well as that of the *parliamentary*, notices of objection seems involved in *Hall v. Cropper*, the decision of the court rests entirely on the construction of the note to the *parliamentary* forms. This is clear both from the language of the court, and from the fact that, whereas there was an order of court for correcting the list of *parliamentary* voters, pursuant to section 67 of 6 Vict. c. 18, there was no such order for correcting the *burgess roll*, pursuant to section 35 of the Parliamentary and Municipal Registration Act, 1878. However, the note to the *municipal* forms was brought under the notice of the court in *Mortlock v. Farrer*, it being contended, on behalf of the respondent in that case, that the notes to the *parliamentary* and *municipal* forms respectively being *mutatis mutandis*, in the same terms should receive the same construction, that, as the *burgess roll* consisted of only one qualification list, the word "list" in the note to the *municipal* forms must necessarily refer to parish list, and, consequently, that that word in the note to the *parliamentary* forms must also refer to such list. The court, admitting the difficulty thus created, and confessing their inability to give an adequate interpretation of the note to the *municipal* forms, were of opinion, nevertheless, that the difficulty arising from it was not sufficient to outweigh the argument founded on the parity of the Acts of 1843 and 1878. Lord COLERIDGE, C. J., said, in the course of his judgment: "I do not think that it" (the note) "means in the *municipal* notice that the *parochial* list should be specified:" L. R. 5 C. P. D. 84.

out specifying the list for the particular parish wherein the alleged qualification was situate: *Hall v. Cropper* (a), L. R. 5 C. P. D. 73, 76; 1 Colt. Reg. Cas. 20, 29; 49 L. J. C. P. D. 160, 162; 41 L. T., N. S. 470, 472; 28 W. R. 395, 396.

*Notice of objection need not state on which of several parliamentary lists for the parish objector's name is to be found.*

*Omission (in a notice of objection) of the word "parliamentary" in describing the parliamentary list to which objector belongs is a "mistake," which revising barrister has power to correct under section 28, sub-section 2, of 41 & 42 Vict. c. 26, and one which (at any rate where there are both parliamentary and burgess lists for the parish) he ought to correct by supplying the omission.*

CITY AND BOROUGH OF BATH. A notice of objection to a parliamentary voter was signed thus:—

"Henry James, of 36, New King street, on the list of voters for the parish of Walcot."

There were two lists of parliamentary voters for the parish of Walcot, namely, list No. 1, division 1, being the list of persons entitled under the Reform Act, 1832, or by section 3 of the Representation of the People Act, 1867; and list No. 3, being the list of lodgers published under section 22 of the Parliamentary and Municipal Registration Act, 1878. There were also two lists of burgesses for the said parish of Walcot, namely, list No. 1, division 1, and list No. 1, division 3.

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(a) The respondent, Cropper, although signing the declaration for himself, as well as on behalf of the "other persons interested as respondents," does not appear by any statement in the case, or by the schedule of names annexed thereto, to have been one of the persons the retention of whose names depended on the result of the appeal. However, no question was raised as to his being a person "interested" within the meaning of 6 Vict. c. 18, s. 44. See the observations of the court in *Wanklyn v. Woollett*, 4 C. B. 97, 98, 99.



The name of Henry James (the objector) was on list 1, division 1.

The revising barrister was of opinion that the notice of objection was invalid for omitting to state (as required by Form (I.) in the Schedule to 41 & 42 Vict. c. 26) in the description of the objector, that he was on the list of "*parliamentary*" voters, and also for omitting to specify the particular list on which his name appeared; and that he, the revising barrister, had no power to amend. He, therefore, retained on the list of voters the name of the person to whom such notice referred, and also the names of other persons affected by similar notices, and whose cases were consolidated with his.

The court held,—

1. That the notice of objection was not invalid for omitting to specify the particular list on which the objector's name appeared.
2. That, whether or not the omission of the word "*parliamentary*" would, in the absence of a power of amendment, have been fatal to the validity of the notice, such omission was a "mistake" within section 28, sub-section 2, of the Parliamentary and Municipal Registration Act, 1878, and one, therefore, which the revising barrister had power to correct, and that he ought to have corrected it, by supplying the omission: *James v. Howarth*, L. R. 5 C. P. D. 225; 1 Colt. Reg. Cas. 87; 49 L. J. C. P. D. 169.

*Municipal borough of Liskeard (with separate overseers and rates) forming part of parliamentary borough of Liskeard, held to be properly described as "the parish of the borough of Liskeard," notwithstanding that there was another locality (also with separate overseers and rates) in the parliamentary borough, known as "the parish of Liskeard."*

BOROUGH OF LISKEARD. The parliamentary borough of Liskeard consisted of—

1. The municipal borough of Liskeard, which was within, and formed part of, the parish of Liskeard.
2. So much of the parish of Liskeard as was not within the municipal borough.
3. A part of the parish of St. Cleer.

Each of these three localities had separate parochial officers and rates, and, for the purpose of distinction, the first was known as "The borough of Liskeard," and the second, as "The parish of Liskeard."

An objector on the list of parliamentary voters for the borough (municipal) of Liskeard signed his notices of objection (to the party and overseers) as follows :—

"William Rodd,

"Of Higher Lux street, on the list of parliamentary voters for the parish of the borough of Liskeard, division 1."

The revising barrister decided, on objection, that the notices were valid, and expunged the name of the person objected to from the list. It was contended on behalf of the latter, on appeal, that there being two places, one known as the borough of Liskeard, and the other known as the parish of Liskeard, the description of the objector was misleading, since it left it in doubt in which of the two places he was to be found; and the word "parish" should, under the circumstances, have been omitted.

The court held, affirming the decision, that the municipal borough of Liskeard, having separate parochial officers and rates, was a "parish," as defined by section 4 of 41 & 42 Vict. c. 26, and was, therefore, properly described as such in the notices of objection, and that such notices, being in the words of Form (I.), No. 2, in the schedule of the Act, were sufficient: *Sargent v. Rodd*, 1 Colt. Reg. Cas. 14; 49 L. J. C. P. D. 195.

*Where the statement of an objector's place of abode was omitted from his notice of objection under circumstances which showed that the voter objected to could not possibly have been misled, (it having, moreover, been found as a fact in the case that he was not misled), the court held that the omission was a "mistake" within section 28, sub-section 2, of 41 & 42 Vict. c. 26, and was consequently amendable under that enactment.*

BOROUGH OF HORSHAM. A notice of objection duly served on a voter was signed thus:—

"Arthur Reid Bostock,  
on the list of parliamentary voters for the parish of Horsham."

It was contended by the voter objected to that the notice was void in law, and incapable of amendment, inasmuch as it did not state the objector's place of abode.

The borough of Horsham comprised the greater part of the parish of Horsham, and was contained within it. The objector resided in the parish of Horsham, and his place of abode was, in common with the places of abode of all the other voters resident in the parish of Horsham, described as "Horsham" only in the list of voters.

There was no other person of the same name as the objector on the list of voters, and it was admitted that if the objector had inserted in his notice of objection the words "of Horsham" after his name, the notice would have been valid.

The objector had lived in the parish of Horsham all his life, and was well known there, being a solicitor practising at Horsham, clerk to the magistrates, and coroner.

The revising barrister held as a fact that the voter objected to was not misled or deceived by the omission of the words "of Horsham."

He further held that the omission of the words "of Horsham" was a "mistake" within section 28,

sub-section 2, of 41 & 42 Vict. c. 26, and in the exercise of his discretion he corrected such mistake by inserting the omitted words in the notice of objection.

The court, affirming the decision, held that the omission was a "mistake" within section 28, sub-section 2, of the statute, and, consequently, that the revising barrister was justified in making the amendment: *Adams v. Bostock*, L. R. 8 Q. B. D. 259; 1 Colt. Reg. Cas. 275; 51 L. J. Q. B. D. 175; 45 L. T., N. S. 443; 30 W. R. 460.

*A notice of objection (to overseers) was to names "in the Blockhouse list" of voters, "Division 1," in the city of Worcester. There were two distinct franchise lists in the Blockhouse in addition to the list to which the objection referred, but the latter was the only list made out in divisions. Held, that the notice in question was in substantial compliance with the note to Form (I.) in Schedule of 41 & 42 Vict. c. 26, and was amendable under section 28 (sub-section 2), of that statute.*

CITY OF WORCESTER. W. T. Harris objected to the appellant's name being retained in the Blockhouse list of voters (Division 1). The notice of objection (to the overseers) was in the following form:—

"I hereby give you notice that I object to the names of each and every person mentioned and described below being retained in the Blockhouse list of persons, Division 1, entitled to vote at the election of a member (or members), to serve in parliament for the parliamentary borough of Worcester.

"Dated this 22nd day of August, 1884.

"(Signed) WILLIAM THOMAS HARRIS,  
of 24, George street, Worcester,  
on the list of parliamentary voters,  
Division 1, for the parish of St.  
Martin."

Here followed the names and descriptions of the appellant and other persons whose names appeared in a schedule to the case.

There were three lists of parliamentary voters for the Blockhouse, viz. :—

1. Householders.
2. Freemen.
3. Lodgers.

The name of the appellant was on the parliamentary list 1, Division 1, for the Blockhouse.

The revising barrister, on objection being taken by the appellant to the notice of objection, decided that it was invalid, by reason of its not specifying the list of parliamentary voters to which the objection referred, as required by the note to Form (I.) in the Schedule of 41 & 42 Vict. c. 26; but he also decided (against the further contention of the appellant), that he had power to amend the notice, and he did amend it accordingly by supplying the omission, and expunging the names of the appellant and the other persons in the schedule.

The court, affirming the decision, held, that the notice of objection, although informal, was substantially in compliance with the requirements of the note to Form (I.) in the Schedule of 41 & 42 Vict. c. 26, and therefore amendable under section 28, (sub-section 2) of that statute: *Bollen v. Southall*, L. R. 15 Q. B. D. 461; 1 Colt. Reg. Cas. 368; 54 L. J. Q. B. D. 589; 34 W. R. 44.

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## DECLARATIONS FOR CORRECTING MISDESCRIPTION IN LIST.

*Revising barrister was held not to be empowered by the Parliamentary and Municipal Registration Act, 1878, to amend description of qualification by changing a single into a successive occupation, although declaration pursuant to section 24 of that Act had been duly delivered to town clerk (a).*

BOROUGH OF BURNLEY. L. was objected to on the list of parliamentary and municipal voters (Division 1), on the grounds (*inter alia*) that the nature of his qualification, and the name and situation of his qualifying property, were not correctly described.

His description as entered on the list was as follows :—

|                |                  |        |                  |
|----------------|------------------|--------|------------------|
| Ludlow, Arthur | 8, Birley Place. | House. | 8, Birley Place. |
| Speight.       |                  |        |                  |

L. had duly delivered to the town clerk two declarations pursuant to section 24 of the Parliamentary and Municipal Registration Act, 1878.

The first, headed "Parliamentary," was a formal declaration for correcting misdescription in the list.

The declarant stated that he was the person referred to in the above-mentioned entry (which was set out in the declaration), and that his correct name and place of abode, and the correct particulars respecting his qualification were, and ought to be stated for the purposes of the register then about to

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(a) See now *Foskett v. Kaufman*, *post*, pp. 324, 325.

be made up of voters for the parliamentary borough of Burnley, as follows:—

|                            |                  |                          |   |
|----------------------------|------------------|--------------------------|---|
| Ludlam, Arthur<br>Speight. | 9, Birley Place. | Houses in<br>succession. | 8, Birley Place,<br>and 9, Birley<br>Place. |
|----------------------------|------------------|--------------------------|---|

The second declaration was for the correction of the burgess list, but was in other respects identical with the first.

The revising barrister was of opinion that, as the declarations proposed to substitute a new and different qualification for that stated in the list of voters, they were beyond the scope and meaning of section 24, and that he had no power to make the proposed amendments in the third and fourth columns. He therefore expunged L.'s name from the list.

The court, affirming the decision, held that the Parliamentary and Municipal Registration Act, 1878, does not authorize an amendment of the description of qualification by adding premises to those described in the list so as to make up the necessary qualification, and, consequently, that the declarations in question were of no avail (*a*): *Porrett (b) v. Lord*, L. R. 5 C. P. D. 65; 1 Colt. Reg. Cas. 46; 49 L. J. C. P. D. 176; 42 L. T., N. S. 28; 28 W. R. 393.

(*a*) See now *Foskett v. Kaufman*, *post*, pp. 324, 325.

(*b*) This was a consolidated appeal, and Porrett made and signed the declaration of appeal simply as *agent* for the persons "interested as appellants." He does not appear by any statement in the case to have been himself personally "interested" in the matter of the appeal. As to the sufficiency of such a declaration in a consolidated appeal, see the observations of the court in *Wanklyn v. Woollett*, 4 C. B. 97, 98, 99, and sections 42 and 44 of 6 Vict. c. 18.

*Revising barrister held to have no power to act upon a declaration as to misdescription under section 24 of 41 & 42 Vict. c. 26 (as amended for the year 1885, by section 30 of 48 & 49 Vict. c. 23), unless it has been sent to the town clerk in due time.*

BOROUGH OF IPSWICH. The respondent's name having been expunged from the overseer's list on objection by the appellant, a declaration under section 24 of the Parliamentary and Municipal Registration Act, 1878 (correcting the description of the respondent's qualification), was handed to the revising barrister by the town clerk. The said declaration purported to have been made before a justice of the peace on the 7th of September, 1885, and the indorsement thereon by the town clerk was that it was received by him at noon on that day.

The revising barrister decided to accept the declaration as evidence of the respondent's qualification, and re-instated his name in the list with the corrected description set out in the declaration.

The court reversed the decision on the ground that the sending declarations as to misdescription to the town clerk within the statutory time was a condition precedent to their being received as evidence of the facts declared to: *Daking v. Fraser*, L. R. 16 Q. B. D. 252; 1 Colt. Reg. Cas. 455; 55 L. J. Q. B. D. 11; 34 W. R. 366.

## SUFFICIENCY OF DESCRIPTION IN LISTS OF VOTERS (a).

*Where qualification consists of two houses occupied in immediate succession, both houses must be described in list. If one be omitted, revising barrister not empowered to supply it.*

**BOROUGH OF LEWES.** The appellant's qualification was described in the third and fourth columns of the list of voters as follows:—

|        |  |              |
|--------|--|--------------|
| House. |  | East street. |
|--------|--|--------------|

He had for seven months previous to 31st July (b), 1843 (the year of the revision), occupied, as tenant, house numbered 10, East street, having removed thither direct from house 16, West street, which he had occupied, as tenant, for more than six months next preceding his removal therefrom.

Held, that the appellant's title to be registered rested on his occupation of the two houses in immediate succession, and both houses should, therefore, have been described in the list, as forming his qualification to vote.

Held, further, that the addition of the premises in West street to the qualification inserted in the list, would be a change in the description of the qualification, not warranted by 6 Vict. c. 18, s. 40: (c) *Bartlett v. Gibbs*, 5 M. & G. 81; 1 Lutw. 73; 13 L. J. C. P. 40; 7 Jur. 1158; B. & Arn. 98.

(a) See now the provisions of section 24 of the Parliamentary and Municipal Registration Act, 1878, enabling borough voters to make declarations as to misdescription, and *Fuskett v. Kaufman*, *post*, pp. 324, 325.

(b) The period of occupation necessary to qualify is now computed by reference to 15th July; see section 7 of the Parliamentary and Municipal Registration Act, 1878.

(c) See note (b), *ante*, on p. 220.

*If premises giving a county vote be situate in a "street, lane, or other like place," and are not numbered, they are well described in claim, and list of voters, as being in the particular "street," &c., without name of occupying tenant being substituted for number.*

SOUTH LANCASHIRE. The respondent's qualification was described in the list of claimants as follows:—

|                         |  |                          |
|-------------------------|--|--------------------------|
| Undivided moiety of two |  | Tinker lane, Hollinwood. |
| freehold cottages.      |  |                          |

There were more than forty cottages in Tinker lane, but they were not numbered; and neither of the two cottages in respect of which the respondent claimed was known by any particular name; but each of them had an occupying tenant.

It was contended before the revising barrister, that the description in the fourth column was not sufficient within the statute (6 Vict. c. 18), reference being also had to the forms in Schedule A., and that, neither of the cottages being numbered, and the property not being known by any name, the names of the occupying tenants ought to have been given.

The revising barrister having decided that the description was in sufficient compliance with the statute,

The court affirmed his decision: (a) *Eckersley v.*

(a) TINDAL, C. J., in delivering the judgment of the court, said, "Although it is contended that the 5th section of the Act requires the overseers to make out, according to the form numbered 3, an alphabetical list of claimants, containing, among other things, 'the nature of his qualification, *and* the local, or other description of his property, *and* the name of the occupying tenant thereof,' and that, consequently, the name of the occupying tenant must be inserted in each case: yet it appears a sufficient answer, that this direction is qualified and restricted by the words which immediately follow, namely, that the same shall be written 'as they are stated in the claim.' The direction at the head of Form No. 2" (the notice of claim) "appears to us to intend, that if a house be in a 'street, lane, or other like place' in the parish, the 'street' or 'lane' shall be mentioned; and that, if the houses



*Barker*, 8 Scott, N. R. 899; 7 M. & G. 76; 1 Lutw. 190; 14 L. J. C. P. 65; 9 Jur. 331; B. & Arn. 334.

*A building calculated for a dwelling-house, though not used as such, is a "house" within 2 Will. IV. c. 45, s. 27 (a).*

CITY OF BRISTOL. F. was objected to in respect of a qualification described in the list as "house."

He rented a building, consisting of apartments, and which had the usual conveniences of, and was in every way calculated for, a dwelling-house, and was in fact once used as such; but it had ceased to be so used, and no one resided on the premises. F. occupied the greater portion of the building himself, partly for warehousing goods, and partly for a sale room.

Some of the rooms not so occupied he let off as workshops.

Held, that F.'s qualification was properly described as "house:" *Daniel v. Coulsting*, 8 Scott, N. R. 949; 7 M. & G. 122; 1 Lutw. 230; 14 L. J. C. P. 70; 9 Jur. 258; B. & Arn. 380.

*In a list of occupiers it is sufficient to state nature of qualifying property, without stating the extent of voter's interest therein.*

CITY OF BRISTOL. The respondent's qualification was described in the list as "house and shop."

be numbered, the number also shall be given; but that, if the house and premises be not in a 'street' or 'lane,' 'or other like place,' but are in a road, or on a common, or the like, then the name of the property shall be given, if known by any, or the name of the occupying tenant."

The heading of the fourth column in Form No. 2 (referred to above) is as follows:—"Street, lane, or other like place, in this parish (or township), and number of house (if any), where the property is situate, or name of the property, if known by any, or name of the occupying tenant ———."

The heading of the fourth column of the form of claim in respect of ownership given in the 2nd Schedule of the Registration Act, 1885, is simply "Description of qualifying property."

(a) Repealed, save as appears in note (b), *ante*, on p. 103.

He occupied the premises so described jointly with another person.

The value was sufficient, and all the other requisites of qualification had been complied with.

Held, that the respondent's qualification was sufficiently described, without a statement of the fact that the occupation was joint: *Daniel v. Camplin*, 7 M. & G. 167; 8 Scott, N. R. 999; 14 L. J. C. P. 121; 1 Lutw. 264; 9 Jur. 403; B. & Arn. 425.

*Whether property be sufficiently described for the purpose of being identified, a question of fact for revising barrister, and the court will not review his decision thereon, if not shown by the evidence to have been erroneous.*

MIDDLESEX. H. was described in the register for the parish of Willesden as follows:—

|              |   |                                |          |
|--------------|---|--------------------------------|----------|
| Hall, Henry. | The Grove,<br>Neasdon,<br>in this parish. | House and land<br>as occupier. | Neasdon. |
|--------------|---|--------------------------------|----------|

It was contended at the revision court, that the property was not sufficiently described for identification, and that the name either of the property, or of the occupying tenant, should have been given in the fourth column.

It was shown that Neasdon was not a street, lane, or other like place, and that the property was not situate in any street, lane, or other like place, but was known by the name of "The Grove, Neasdon."

The revising barrister having ruled that the description was sufficient,

The court held, that the question was one of fact for the revising barrister, and, there being nothing to show that he had come to a wrong conclusion, they refused to interfere: *Wood v. Willesden*, 2 C. B. 15; 1 Lutw. 314; 15 L. J. C. P. 41; 9 Jur. 1100; B. & Arn. 527.

*“Travelling abroad,” a sufficient statement in second column of register, where such statement is in accordance with fact, and voter has no fixed place of abode.*

MIDDLESEX. G. was objected to on the register of voters, on the ground that he was described in the second column thereof as “travelling abroad.”

It was proved that G. was, and for several years had been, travelling abroad, and had no fixed place of abode; but it was contended before the revising barrister that, as no place of abode was given, the name ought to be expunged.

The barrister was of opinion, that the description in the second column, was, under the circumstances, sufficient, and retained the name.

The court affirmed the decision: *Walker v. Payne*, 2 C. B. 12; 1 Lutw. 324; 15 L. J. C. P. 38; 9 Jur. 1014; B. & Arn. 541.

*A wholly untrue statement of voter's place of abode, an “insufficient description,” and amendable under section 40 (a) of 6 Vict. c. 18.*

CITY OF LONDON. The respondent's place of abode was described in the list of occupiers as “Greenwich;” his actual place of abode was Queen square, Bloomsbury, and not Greenwich, both places being within seven miles of the city of London.

Held, that the erroneous statement was an “insufficient description” within, and amendable under, 6 Vict. c. 18, s. 40 (a), upon the matter being supplied to the satisfaction of the revising barrister: *Luckett v. Knowles*, 2 C. B. 187; 1 Lutw. 451; 15 L. J. C. P. 87; B. & Arn. 730.

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(a) See note (b), *ante*, on p. 220.

*Part of a house so separated from residue as to constitute a "house" within section 27 (a) of Reform Act, 1832, sufficiently described as "part of a house," although such description of qualification is not included among those enumerated in above-named section.*

CITY OF LONDON. The appellant was described on the list of voters as follows:—

|                          |                    |          |                    |
|--------------------------|--------------------|----------|--------------------|
| William Henry<br>Judson. | 22, Cannon street. | Part of  | 22, Cannon street. |
|                          |                    | a house. |                    |

He occupied as tenant the upper part of the said house and the kitchen, having a distinct and separate entrance thereto, of the key whereof he had the exclusive possession.

His landlord occupied the ground floor as a shop, having a distinct and separate entrance thereto.

Held, reversing the revising barrister's decision, that, as part of a house may be so separate from the rest as to constitute in itself a house (*b*), the description of the appellant's qualification was sufficient: *Judson v. Luckett*, 2 C. B. 197; 1 Lutw. 490; 15 L. J. C. P. 163; 10 Jur. 252; B. & Arn. 707.

*Qualification in respect of premises occupied in succession must be described accordingly, notwithstanding that such premises are so situate as to fall under one and the same designation.*

SOUTH NORTHAMPTONSHIRE. A voter's name stood thus on the register:—

|                 |             |                         |           |
|-----------------|-------------|-------------------------|-----------|
| David Attfield. | Cold Ashby. | Occupier of land        | Own occu- |
|                 |             | above £50 ( <i>c</i> ). | pation.   |

Attfield had occupied during the qualifying year two farms (severally of the prescribed rental) in the parish of Cold Ashby.

(*a*) Repealed, save as appears in note (*b*), *ante*, on p. 103.

(*b*) See the judgment in *Cook v. Humber*, 11 C. B., N. S. 40, 48. And see now section 5 of the Parliamentary and Municipal Registration Act, 1878.

(*c*) See note (*a*), *ante*, on p. 93.

The description of qualification appearing in the register applied equally to both properties.

Held, that the description was insufficient as not indicating a successive occupation under section 73 of 6 Vict. c. 18: *Burton v. Gery*, 5 C. B. 7; 2 Lutw. 4; 17 L. J. C. P. 66; 11 Jur. 948; 10 L. T. 135.

*Where two houses are occupied in immediate succession, and one of them only is described in fourth column, revising barrister has no power to amend by inserting a description of the other, although the words "in succession" appear in third column.*

BOROUGH OF SHREWSBURY. The appellant was on the £10 occupiers' list, and his qualification was described in the third and fourth columns thus:—

House in succession. | Butcher row.

He had, during the qualifying year, occupied two houses in immediate succession in different parishes within the borough, the first house being in Coleham, and the second in Butcher row.

Held, that the revising barrister was not empowered by section 40 (a) of 6 Vict. c. 18, to amend the fourth column by inserting Coleham therein, as such amendment would have described a different qualification from that stated in the list (b): *Onions v. Boudler*, 5 C. B. 65; 2 Lutw. 59; 17 L. J. C. P. 70; 11 Jur. 1041; 10 L. T. 165.

*"£50 occupier" (c), a sufficient description in law of qualification under Chandos Clause, and, if insufficient for identification, may be amended.*

HUNTINGDONSHIRE. The appellant's name was on the list of claimants for the parish of St. Neots, as follows:—

Howitt, Henry. | St. Neots. | £50 occupier. | Cambridge road.

It appeared that the appellant had occupied, for a

(a) See note (b), *ante*, on p. 220.

(b) See now section 24 of the Parliamentary and Municipal Registration Act, 1878, enabling borough voters to make declarations as to misdescription.

(c) See note (a), *ante*, on p. 93.



sufficient time prior to 31st July next preceding the revision, a farm on the Cambridge road in the parish of St. Neots, for which he was *bonâ fide* liable to a yearly rent of £50 (*a*).

It was objected that the qualification, as stated in the third column, was insufficient, and the revising barrister held the objection valid.

On being asked to amend the description by substituting the words "farm as," for "£50," the barrister held that he had no power to do so, and expunged the appellant's name from the list.

Held, that the qualification, as stated in the list, was sufficient in law, as pointing to a qualification under section 20 of 2 Will. IV. c. 45, and that, if the revising barrister was of opinion that the description thereof was not sufficient for the purpose of identification, he ought, having the materials before him, to have amended it under 6 Vict. c. 18, s. 40 (*b*): *Howitt v. Stephens*, 5 C. B., N. S. 30; K. & G. 183; 28 L. J. C. P. 105; 32 L. T. 162; 5 Jur., N. S. 123; 7 W. R. 55 (*c*).

*Description of qualification in third column as "a fee farm rent," instead of "a fifty-oneeth share" therein, held, if insufficient as it stood, amendable.*

*In description in fourth column of fee farm rent, charged on lands belonging to two persons, it was held sufficient to name one of such persons only, the sum assessed on that one's land being alone sufficient to qualify.*

BUCKINGHAMSHIRE. A.'s qualification was described in the third and fourth columns of the list of voters for the parish of Hartwell, as follows:—

Freehold fee farm rent out  
of houses and lands.

John Lee, Esq.,  
Hartwell.

(*a*) See note (*a*), *ante*, on p. 93.

(*b*) See note (*b*), *ante*, on p. 220.

(*c*) Per WILLIAMS, J.—"I must say that I think it would be very mischievous, if a revising barrister could hold that a claimant is bound to describe his qualification in the terms which a lawyer would use; it is sufficient that he describes it, so that a man of ordinary sense would not be misled as to its nature:" 28 L. J. C. P. 107.

A. and fifty other persons were entitled in fee, as tenants in common, each to a fifty-oneth share of £105 8s. 11*d.*, land tax, as a fee farm rent, sold by the commissioners under 42 Geo. III. c. 116.

£104 11s. 4*d.* of the above sum was charged upon land belonging to John Lee, of Hartwell, and the remainder (17s. 7*d.*) upon land belonging to one Lowndes.

Held, that the description of the qualification in the third column was, if not sufficient as it stood, one which the revising barrister had power to amend under section 40 (*a*) of 6 Vict. c. 18, by prefixing thereto the words "one undivided fifty-oneth part of and in."

Held also, that, inasmuch as the amount of land tax charged on Lee's land was enough to entitle A. to the franchise, the entry of Lee's name in the fourth column was sufficient, without mentioning the name of Lowndes: *Cooper v Ashfield*, 5 C. B., N. S. 16; K. & G. 200; 28 L. J. C. P. 35; 5 Jur., N. S. 293; 32 L. T. 161.

*The word "tenant," a sufficient description in law of qualification under Chandos Clause (b), and may be amended for greater accuracy of definition.*

NORTH RIDING OF YORKSHIRE. A voter was described on the register as follows:—

Brisby, William. | Thornton. | Tenant. | Newstead Grange.

The revising barrister held, on objection, that the description "tenant" was sufficient in law, as denoting a qualification under section 20 of 2 Will. IV. c. 45, and he amended the description for the purpose of more accurately defining it, under section 40 of 6 Vict. c. 18, by changing it into "farm, as occupying tenant."

The court affirmed his decision: *Birks v. Allison*, (Brisby's case), 13 C. B., N. S. 12; K. & G. 507; 32 L. J. C. P. 51; 7 L. T., N. S. 786; 9 Jur., N. S. 692; 11 W. R. 90.

(*a*) See note (*b*), *ante*, on p. 220.

(*b*) See note (*a*) *ante*, on p. 93.

*The word "tenant," a sufficient description in law of qualification under Chandos Clause (a), and may be amended for greater accuracy of definition.*

**NORTH RIDING OF YORKSHIRE.** The case named below was substantially the same as the preceding one, and is governed by the same decision: *Birks v. Allison* (Dixon's case), 13 C. B., N. S. 24.

*"Leasehold" sufficient description of lease for life.*

**MERIONETHSHIRE.** J. was on the list of claimants, wherein his qualification was described as "leasehold house and garden." He held the premises in question on a lease for life.

Held, that although the interest was technically freehold, the description was such as to be commonly understood, within 6 Vict. c. 18, s. 101, and therefore, sufficient: *Jones v Jones*, L. R. 4 C. P. 422; 1 H. & C. 95; 38 L. J. C. P. 43; 17 W. R. 204; 19 L. T., N. S. 561.

*Publication of £12 (b) list not necessarily vitiated by interpolation of heading applicable to property list.*

**SOUTH NORTHUMBERLAND.** The published lists of voters for the parish of Allendale, consisted of five sheets, numbered respectively, 1, 2, 3, 4, 5.

Sheets 1, 2, and part of sheet 3, comprised an alphabetical list of persons entitled in respect of property situate in the parish, and were headed accordingly.

The list of persons so entitled ended in the middle of sheet 3; then there was a line, and under it the proper heading for voters as occupiers of rateable value of £12 or upwards. Underneath that heading commenced an alphabetical list of £12 occupiers (b), which was continued on sheets 4 and 5, but, by a printer's error, the heading, applicable to voters in respect of property, at the top of sheets 1, 2, and 3, was repeated at the top of sheets 4 and 5.

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(a) See note (a), *ante*, on p. 93.

(b) See note (a), *ante*, on p. 96.

The sheets were fixed in the places of publication one upon another, sheet 1 being outermost, and the others following in the order of number, and they were attached together by the left upper corner, so that, to a person turning over the upper to look at the lower sheets, no portion of the heading would be covered.

It did not appear that any person had in fact been misled.

The revising barrister decided, that the interpolated heading was not a misnomer of a thing "so denominated as to be commonly understood," within section 101 of 6 Vict. c. 18, but was positively misleading, and consequently, that there had been no sufficient publication of the entire £12 list; he, therefore, refused to amend, and expunged all the names on sheets 4 and 5.

The court, reversing the decision, held, that the publication was sufficient, as the interpolated heading could not have misled any reasonably careful man; and that the revising barrister should have amended, under section 40 (*a*) of the statute: *Mather v. Allendale*, L. R. 6 C. P. 272; 1 H. & C. 461; 40 L. J. C. P. 76; 19 W. R. 284; 23 L. T. N. S. 539.

*Where qualification was described as "Freehold rent-charge (b) issuing out of freehold houses," and the evidence proved an ownership in fee; held a fatal variance.*

**SOUTH ESSEX.** The appellant was on the list of claimants in respect of property in West Ham. The entries in the third and fourth columns, which were in accordance with the notice of claim, were as follows:—

|   |   |
|---|---|
| Freehold rent-charge( <i>b</i> ) of<br>£16 per annum issuing<br>out of freehold houses. | 1, 2, 3, and 4, Stanley cottages, Tower Hamlets road. |
|---|---|

The appellant was the owner in fee simple of the plot of land on which stood the cottages described in

(*a*) See note (*b*), *ante*, on p. 220.

(*b*) See note (*b*), *ante*, on p. 7.

the fourth column, and he had, more than six months before the last day of July (next preceding the revision), let it on a long lease at a yearly rent of £16. The lease was an ordinary building lease, with a reservation of rent in the usual manner, and with the usual covenants. The appellant had not parted with his reversion expectant on the determination of the term, nor had he dealt with his freehold estate in the land otherwise than by granting the above-named lease.

Held, that the qualification proved was different from that described, and that the description was not amendable under section 40 (a) of 6 Vict. c. 18 (WILLES, J., *dubitante*): *Nicholls v. Bulwer*, L. R. 6 C. P. 281; 1 H. & C. 472; 40 L. J. C. P. 82; 19 W. R. 282; 23 L. T., N. S. 542.

*Voter not restricted by description "dwelling-house" to proof of qualification under section 3 of Representation of People Act, 1867; but may show that he is qualified under section 27 (b) of Reform Act, 1832.*

BOROUGH OF MARYLEBONE. B. was on the list of voters in respect of a qualification described as "dwelling-house."

The premises so described consisted of a shop, with dwelling rooms above.

B. had occupied the premises in question, jointly with another person, for the twelve calendar months next previous to 31st July (c), 1871 (the year of the revision).

The conditions of section 27 (b) of the Reform Act, 1832, as to the voter's residence within the borough, his being rated, and his payment of rates and assessed taxes, had all been duly complied with. The clear yearly value of the premises gave a sum of more than £10 for each occupier.

(a) See note (b), *ante*, on p. 220.

(b) Repealed, save as appears in note (b), *ante*, on p. 103.

(c) The period of occupation necessary to qualify is now to be computed by reference to 15th July: see section 7 of the Parliamentary and Municipal Registration Act, 1878.



The names of the occupiers of houses, &c., within 2 Will. IV. c. 45, s. 27, and of the inhabitant occupiers of dwelling-houses, within 30 & 31 Vict. c. 102, s. 3, were included by the overseers in one list.

It was objected, that B.'s qualification being described as dwelling-house, his title to be on the register could only be under section 3 of the Representation of the People Act, 1867, and, consequently, that he was disqualified by the proviso in that section by reason of his being a joint occupier.

The revising barrister substituted "house" for "dwelling-house," and retained B.'s name on the list.

Held (BRETT, J., *dissentiente*), that the term "house" in section 27 of the Reform Act, 1832, included "dwelling-house," and that the name was rightly retained, but that the amendment was unnecessary: *Townshend v. St. Marylebone*, L. R. 7 C. P. 143; 1 H. & C. 606; 41 L. J. C. P. 25; 20 W. R. 148; 25 L. T., N. S. 749.

*Revising barrister should substitute the correct number of a house (the qualifying property) for a wrong one, provided the qualification erroneously described as to number be, when corrected as to number, the same as that to be proved.*

**EAST CUMBERLAND.** A voter's qualification was described in the third and fourth columns of the register as follows:—

Freehold house and shop. | 4, English street, Carlisle.

The above description of the premises was right when the voter's name was placed on the register, but subsequently (some years before the revision), the number had by competent local authority been changed from "4" to "9," and had remained "9" ever since. There were at the time of the revision other premises in English street numbered "4," which did not belong to the voter, and in respect of which he did not claim to be entitled to vote.

The vote was objected to, and the barrister was asked to amend; but he, being of opinion that the inaccurate description could not be amended, and was fatal to the voter's title to be registered, expunged the name.

Held, reversing the decision, that the qualification described being the same as that which was to be proved, the inaccurate description thereof was an "insufficient description," within 6 Vict. c. 18, s. 40 (a), and therefore, one which the barrister ought to have amended: *Bendle v. Watson*, L. R. 7 C. P. 163; 1 H. & C. 591; 41 L. J. C. P. 15; 20 W. R. 145; 25 L. T., N. S. 806.

*The description, "rent-charge (b) on freehold house" held sufficient, as importing a freehold rent-charge (b).*

**SOUTH DERBYSHIRE.** The appellant's qualification was described in the list of voters as "rent-charge (b) on freehold house."

The revising barrister, on objection, expunged his name, being of opinion that a freehold tenure did not appear upon the list either by absolute statement, or by necessary implication, and that, consequently, the description was insufficient in law, and not one which he had power to amend under section 40 (a) of 6 Vict. c. 18.

Held, reversing the decision, that the description was sufficient, as importing a freehold rent-charge, but that if it was not, the revising barrister, upon being satisfied of the freehold nature of the rent-charge, should have amended: *Sherwin v. Whyman*, L. R. 9 C. P. 243; 2 H. & C. 185; 43 L. J. C. P. 36; 22 W. R. 127; 29 L. T., N. S. 680.

(a) See note (b), *ante*, on p. 220.

(b) See note (b), *ante*, on p. 7.

*Where a borough voter's qualification was described in list of occupiers as "house," and it appeared that, although qualified under section 3 of 30 & 31 Vict. c. 102, he was not qualified under section 27 (a) of 2 Will. IV. c. 45: held, that revising barrister was empowered by section 28, sub-section 12, of 41 & 42 Vict. c. 26 to amend such description by prefixing "dwelling" to "house."*

CITY OF EXETER. The respondent was objected to on the occupiers' list (parliamentary and municipal), on the ground that his alleged qualification was of insufficient value.

His name was entered in the said list in the following form:—

|                |                 |        |                 |
|----------------|-----------------|--------|-----------------|
| Towers, Thomas | 4, Bonhay Road. | House. | 4, Bonhay Road. |
| Hoskins.       |                 |        |                 |

The yearly value of the house described above was less than £10.

The respondent had, during the whole of the qualifying period, occupied the house, as tenant, using it as a dwelling-house.

After argument in support of, and against, the objection, the revising barrister decided that the term "house" was sufficient to include "dwelling-house," and was not so appropriated to the franchise created by section 27 (a) of the Reform Act, 1832 (2 Will. IV. c. 45), as to exclude proof under it of a "dwelling-house" under section 3 of the Representation of the People Act, 1867 (30 & 31 Vict. c. 102), but that the question whether a house was a "house" as required by the Reform Act, 1832, or a "dwelling-house" under the Representation of the People Act, 1867, was a matter of evidence, and although (in his opinion) it was not necessary to do so, he, nevertheless, amended the description by prefixing the word "dwelling" to "house" for the purpose of more clearly defining the qualification, and retained the name of the respondent on the list.

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(a) Repealed, save as appears in note (b), *ante*, on p. 103.

The court (without expressing an opinion whether or not the word "house" is a sufficient description of the "dwelling-house" franchise) (a) held that the case before the court was provided for by sub-section 12 of section 28 of 41 & 42 Vict. c. 26, and that the revising barrister in making the amendment had acted in accordance with the provisions of that sub-section. His decision was therefore affirmed: *Friend v. Towers*, 1 Colt. Reg. Cas. 310; 52 L. J. Q. B. D. 109; 31 W. R. 247.

*Where the nature of a voter's qualification was described in the third column of the overseers' list as "dwelling-houses in succession," and the voter had successively occupied during the qualifying year three houses, of which (through an inadvertence of the overseers) two only were described in the fourth column of the list, viz., that which was firstly, and that which was lastly, occupied by the voter; it was held by a majority of the court that the mistake was amendable under s. 28 of 41 & 42 Vict. c. 26, by supplying in the fourth column a description of the intermediate house (b).*

**CITY OF EXETER.** The respondent's name was duly objected to on the list of voters, wherein it appeared as follows:—

|                |                                       |  |  |
|----------------|---------------------------------------|--|--|
| Hoar, William. | 34, Prospect Place,<br>Cowick Street. | Dwelling -<br>houses in<br>succession. | 44, Oxford Street,<br>and 34, Prospect<br>Place, Cowick<br>Street. |
|----------------|---------------------------------------|--|--|

(a) WILLES, J., seems to have been of opinion that the franchise under section 3 of the Representation of the People Act, 1867, was not to be treated as a distinct franchise, but as an expansion of the franchise (as regards a dwelling-house) created by section 27 of the Reform Act, 1832; and, accordingly, that if a claimant failed under that Act, he might have had recourse to the Act of 1867, and *vice versa*: see 1 H. & C. on p. 612.

(b) But see *Foskett v. Kaufman*, *post*, pp. 324, 325.

The ground of objection was that of insufficient occupation. The respondent had occupied 44, Oxford Street, during the earlier part of the qualifying period, and 34, Prospect Place, during the latter part thereof. He did not, however, move from one house to the other direct, but went from 44, Oxford Street to 31, Prospect Place, and thence to 34, Prospect Place. His occupation of the three houses named, and not of the two houses only, gave him a complete qualification of the nature described in the third column. The overseers knew of the respondent's intermediate occupation of 31, Prospect Place, but accidentally and by mistake, omitted to specify it in the local description of the qualifying property in the 4th column.

The revising barrister, at the respondent's request, amended the 4th column by striking out the figures 44 and 34 standing before Oxford Street and Prospect Place respectively, and retained the name of the respondent in respect of his qualification which consisted of his occupation of the three houses in succession as stated above.

Held, on appeal, by Stephen and Cave, JJ. (Lord Coleridge, C. J., dissentiente), that the revising barrister had power under section 28 of 41 & 42 Vict. c. 26, to correct the mistake (*a*), but that, instead of striking out the figures 44 and 34, he should have added "and 31" after Oxford Street: *Ford v. Hoar*, L. R. 14 Q. B. D. 507; 1 Colt. Reg. Cas. 351; 54 L. J. Q. B. D. 286; 53 L. T., N. S. 44; 33 W. R. 566.

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(a) But see *Foskett v. Kaufman*, *post*, pp. 324, 325.



*Where a qualification was by mistake described in the overseers' list as "offices, successive occupation," and it consisted in point of fact of a single occupation, the mistake was held to be amendable under 41 & 42 Vict. c. 26.*

BOROUGH OF CARDIFF. The appellant's name was duly objected to on the list of voters (Division I.) for the parish of St. John the Baptist, West Ward.

The description of the appellant in the said list was as follows:—

|                |                 |             |             |
|----------------|-----------------|-------------|-------------|
| Blosse, Harry  | Gabalva House,  | Offices,    | High Street |
| Francis Lynch. | Cathedral road. | successive  | and Charles |
|                |                 | occupation. | Street.     |

The appellant had, during the whole of the qualifying year, occupied the office in High street only. The addition of "Charles street" was due solely to an erroneous belief of the overseers. The appellant had not sent in any declaration under section 24 of 41 & 42 Vict. c. 26, nor had he made any claim in respect of the office in High street only.

The revising barrister was asked to amend the description in the third and fourth columns by expunging the words "successive occupation" in the third column, and the words "and Charles street" in the fourth column. This he refused to do, on the ground that such correction would constitute a change in the description of the qualification; and he therefore held the objection fatal, and expunged the name from the list.

The court, reversing the decision, held that the amendment was authorized by 41 & 42 Vict. c. 26: *Blosse v. Wheatley*, 1 Colt. Reg. Cas. 364; 54 L. J. Q. B. D. 289; 53 L. T., N. S. 49; *S. C. Lynch v. Wheatley*, L. R. 14 Q. B. D. 504.

*The power of amendment given by section 28 of 41 & 42 Vict. c. 26, sub-s. 1, is, in the absence of a declaration under section 24, restricted by sub-section 13 to cases which involve no alteration of the description of the nature of qualification.*

BOROUGH OF TOWER HAMLETS (WHITECHAPEL DIVISION). The name and description of the appellant appeared in the hamlet of Mile End New Town list of voters as follows:—

|                 |                          |                 |                          |
|-----------------|--------------------------|-----------------|--------------------------|
| Foskett, Henry. | 5, Victoria<br>Cottages. | Dwelling-house. | 5, Victoria<br>Cottages. |
|-----------------|--------------------------|-----------------|--------------------------|

The appellant was objected to on the ground that he had not occupied the premises described in the list for the requisite period.

The following facts were proved at the Revision Court:—

The appellant had occupied in the borough, during the whole of the qualifying period, two dwelling-houses in immediate succession, namely, one in High Street, Wapping, and the other, the said 5, Victoria Cottages, and his successive occupation of those two dwelling-houses would have given him a complete qualification if, in addition to his name and place of abode, as above stated, the nature of the qualification had, in the third column of the list, been described as “dwelling-houses in succession,” and the name and situation of the qualifying property had been described in the fourth column as “High Street, Wapping, and 5, Victoria Cottages.”

The reason why the overseers had filled up the third and fourth columns as they had done, was that they had obtained from the person rated, or liable to be rated, in respect of 5, Victoria Cottages, a return according to Form [A.] of the General Forms to Schedule 3 of the Registration Act, 1885, in which it was by mistake stated that the appellant was on the 15th of July, 1884, and had been up to the date of the return, an inhabitant occupier of the dwelling-

house, 5, Victoria Cottages, and the appellant had been found by the overseers to be inhabiting that dwelling-house at the date of the inquiries made by them pursuant to the provisions of the Act, and his name had been placed, and still remained, upon their rate-book in consequence of the said return. The revising barrister was asked to amend the third column of the list, by altering "dwelling-house" to "dwelling-houses in succession," and the fourth column by altering "5, Victoria Cottages" to "High Street, Wapping, and 5, Victoria Cottages," upon the authority of the cases of *Hitchins v. Brown*, 2 C. B. 25, and *Ford v. Hoar*, L. R. 14 Q. B. D. 507, *ante*, pp. 321, 322.

The revising barrister decided that neither of these cases applied, and that he was bound by the case of *Porrett v. Lord*, L. R. 5 C. P. D. 65, and he expunged the appellant's name from the list.

The court (Lord Coleridge, C. J., Grove, J., *dis-sentiente* Cave, J.) affirmed the decision. Leave to appeal having been granted under 44 & 45 Vict. c. 68,

The Court of Appeal (Lord Esher, M. R., Cotton and Bowen, LL.JJ.), affirming the decision of the court below, held, that the general power of correcting mistakes given by sub-section 1 of section 28 of 41 & 42 Vict. c. 26 was, in the absence of a declaration under section 24 of the Act, limited to cases in which no change in the description of qualification was involved, and as the proposed correction in the appellant's case was the substitution of a successive for a single occupation, and there had been no declaration under section 24, the revising barrister was not empowered to make the amendment (a): *Foskett v. Kaufman*, L. R. 16 Q. B. D. 279; 1 Colt. Reg. Cas. 466; 55 L. J. Q. B. D. 1; 34 W. R. 90; 54 L. T., N. S. 64.

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(a) In *Jones v. Friend* (an appeal from the revising barrister for the city of Exeter, in 1885), the facts were substantially the same as those in *Foskett v. Kaufman*; the decision in the latter case therefore applies.

*Where the nature of a county voter's qualification (of the annual value of less than £10) was described in a list of voters as "tenement and garden," and the situation of the property as "part of bailiff's tenement," and it was proved that the voter was the inhabitant occupier of such "part of bailiff's tenement" as his "dwelling-house," it was held that the revising barrister was justified in amending the list by striking out the words "and garden," and placing the word "dwelling-house" before "tenement," as he did not thereby alter the description of the qualification, but more clearly and accurately defined it; the formal amendment, however, should have been to expunge the words "tenement and garden," and substitute "dwelling-house."*

DORSETSHIRE (NORTHERN DIVISION). The appellant objected to the name of James Ayles being retained in the parish of Hammoon list of occupiers, wherein he was entered as follows:—

|               |          |                         |                               |
|---------------|----------|-------------------------|-------------------------------|
| Ayles, James. | Hammoon. | Tenement and<br>Garden. | Part bailiff's tene-<br>ment. |
|---------------|----------|-------------------------|-------------------------------|

James Ayles occupied a dwelling-house and garden only in the said parish, of the annual value of less than £10. The appellant duly served him with a notice of objection alleging that the nature of the qualification was wrongly described.

The names of thirteen other persons in the parishes of Hammoon and Manston (whose names and qualifications were set out in schedules attached to the special case) were objected to under similar circumstances.

It was proved that the respondents were inhabitant occupiers of dwelling-houses, and entitled to be so described in the lists, and that the alleged misdescription was wholly "a mistake" of the overseers.

The revising barrister decided that he had power under sub-sections 1, 6, 12, and 13, of section 28 of 41 & 42 Vict. c. 26, or otherwise, to expunge the words "and garden" from the third column, and to prefix the word "dwelling-house" to "tenement," making the nature of qualification read, "dwelling-house tenement," and he retained the names of the respondents on the lists so amended.

The court (Lord Coleridge, C. J., Grove, J., *dissentiente* Cave, J.) reversed the decision. Leave to appeal having been granted under 44 & 45 Vict. c. 68,

The Court of Appeal (Lord Esher, M. R., Cotton and Bowen, LL.JJ.), reversing the decision of the court below, held that the word "tenement," not being limited to the description of a qualification by reason of the occupation of land, but being also capable of signifying a dwelling-house, the revising barrister was justified in making the amendment, as he did not thereby alter the description of the qualification, but more clearly and accurately defined it; the court added, however, that the formal amendment should have been to expunge the words "tenement and garden," and substitute "dwelling-house": *Dashwood v. Ayles*, L. R. 16 Q. B. D. 295; 1 Colt. Reg. Cas. 486; 55 L. J. Q. B. D. 8; 34 W. R. 53; 53 L. T., N. S. 588.



*Where the nature of a county voter's qualification (of the annual value of less than £10) was described in a list of voters as "tenement and garden," and the situation of the property as "school yard," and it appeared from the schedule attached to the special case that, with respect to thirty-three other voters in the same list, the nature of their qualification was described in the same way, and the situation of the qualifying property was, as to two of them, stated to be "school yard;" as to five, "Cat Lane;" as to three, "High Street," and so forth, it was held that, all the cases in the schedule being looked at together, the revising barrister might fairly conclude that the description "tenement and garden" was intended to indicate a dwelling-house, and therefore that he was entitled to amend the description.*

DORSETSHIRE (NORTHERN DIVISION). The appellant objected to the name of the respondent being retained in the occupiers' list for the parish of Stourton, Caundle, in which list he was entered as follows:—

|                |                       |                         |              |
|----------------|-----------------------|-------------------------|--------------|
| Banger, Isaac. | Stourton,<br>Caundle. | Tenement and<br>garden. | School yard. |
|----------------|-----------------------|-------------------------|--------------|

The respondent occupied a dwelling-house and garden only in the said parish, of the annual value of less than £10. The appellant duly served him with a notice of objection, alleging that the nature of the qualification was wrongly described.

The names of thirty-three other persons (whose names and qualifications were set out in a schedule attached to the special case) were objected to under similar circumstances.

It was proved to the barrister that the alleged misdescription was wholly "a mistake" of the overseers, and he decided that he had power, under subsections 1, 6, 12, and 13, of section 28 of 41 & 42 Vict. c. 26, or otherwise, to expunge the words "and

garden" from the third column, and to prefix the word "dwelling-house" to "tenement," making the nature of qualification in the third column read "dwelling-house tenement," and he retained the names of the respondent, and the thirty-three other persons in the said list so amended.

The court (Lord Coleridge, C. J., Grove, J., *dissentiente* Cave, J.) reversed the decision. Leave to appeal having been granted under 44 & 45 Vict. c. 68,

The Court of Appeal (Lord Esher, M. R., Cotton and Bowen, LL.JJ.), reversing the decision of the court below, held, that, all the cases in the schedule being looked at together, the revising barrister might fairly conclude that the description "tenement and garden" was intended to indicate a dwelling-house, and therefore that he was entitled to amend the description: *Minifie v. Banger*, L. R. 16 Q. B. D. 302; 1 Colt. Reg. Cas. 493; 55 L. J. Q. B. D. 10; 53 L. T., N. S. 590.

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RATING <sup>(a)</sup> AND PAYMENT OF RATES.

*Payment of rates and taxes by the paymaster-general on behalf of a public officer, as part remuneration for his services, held a payment of rates and taxes by such officer.*

BOROUGH OF CHATHAM. B. was objected to on the ground that he had not paid his rates and assessed taxes.

He was the master rope-maker in Chatham dock-yard, and, as such, had occupied a house therein of the requisite value for a borough vote.

He was rated to the rates and assessed taxes in respect of the house in question, and such rates and taxes were paid for him by the paymaster-general's clerk, at the pay office at Chatham as part remuneration for services.

Held, affirming the revising barrister's decision, that the payment, being one to which B. was liable, and having been made on his account by those whom he procured to make it by giving value for it, was a sufficient payment within section 27 (b) of the Reform Act, 1832: *Hughes v. Chatham* (Burton's case), 7 Scott, N. R. 581; 5 M. & G. 54; 1 Lutw. 51; 13 L. J. C. P. 44; 7 Jur. 1136; B. & Arn. 61 (c).

(a) The omission of a tenant-occupier's name from the rate would seem (in so far as his franchise is concerned) to have ceased to be of importance: see section 19 of the Poor Rate Assessment and Collection Act, 1869, and section 14 of the Parliamentary and Municipal Registration Act, 1878. See also *Smith v. Seghill*, L. R. 10 Q. B. 422, and *Barton v. Birmingham*, 2 H. & C. 393. For the definition and application of the rating Acts, see sect. 9 of the Representation of the People Act, 1884.

(b) Repealed, save as appears in note (b), *ante*, on p. 103.

(c) The three following cases, substantially resembling Burton's case, were decided in accordance with the judgment therein:—*Parker's case*, *Brook's case*, *Smith's case*, 7 Scott, N. R. 581, 601, 602, 603, 608; 5 M. & G. 54, 73, 74, 75, 80, 81; 1 Lutw. 51, 52, 53, 54, 68, 72; 13 L. J. C. P. 44, 46, 47; 7 Jur. 1136, 1138; B. & Arn. 61, 90, 91, 96, 97.

*Joint rating of landlord and tenants, and payment by landlord of entire rate, in respect of premises, the nature and occupation of which are described in Wright v. Stockport, ante, p. 101, held a rating of, and payment by, each occupier.*

BOROUGH OF STOCKPORT. A factory being let, in distinct portions (a), to a number of persons, the landlord retaining a part, the names of the landlord and his several tenants were inserted in the rate-book in the column headed "name of occupier." The entire premises were assessed under the head "gross estimated rental," at £129. The amount of "rate," and the "total amount to be collected," were stated to be £25. The "amount actually collected" was stated to be £23 2s. 6d.; and in the column headed "empty" was inserted the sum £1 17s. 6d. It was part of the agreement between the landlord and each tenant, that the landlord should pay the rates, and the rent was higher in consideration of such payment. The whole of the rate, excepting what was allowed for the empty portions of the premises, had been duly paid by the landlord.

Held,

1. That each tenant was duly rated, within section 27 of 2 Will. IV. c. 45, for the premises occupied by him;

2. That the landlord's payment of the entire (b) rate was virtually a payment by each occupier: *Wright v. Stockport*, 7 Scott, N. R. 561; 5 M. & G. 33; 1 Lutw. 32; 13 L. J. C. P. 50; 7 Jur. 1112; B. & Arn. 39.

(a) For a description of the premises, and of the nature of their occupation, see *Wright v. Stockport*, ante, p. 101.

(b) The rate having been paid for "every part of the premises that was in the actual occupation of any one," the court considered non-payment in respect of the empty portions immaterial.

*Omission of name of one of two joint occupiers from rate(a), through ignorance of overseers that he was a joint-occupier of premises rated, not a "misnomer, or inaccurate, or insufficient description," within section 75 of 6 Vict. c. 18.*

CITY OF LICHFIELD. The appellant claimed to be inserted in the list of voters in respect of the occupation of building and land. He and his father occupied the premises jointly, as tenants.

Three rates were made during the qualifying year.

The name of the father alone appeared in the first and second rate, but the appellant's name was inserted with his father's in the third.

The appellant, being the person liable to be rated for the premises jointly with his father, had *bonâ fide*, and with his own hand, paid to the collector all three rates.

The reason why his name had been omitted from the first two rates was, that the overseers were not aware at the time of such omission that the occupation was joint.

Held, that this was not a case of "misnomer, or inaccurate, or insufficient description," within 6 Vict. c. 18, s. 75, and that the appellant, not having been "*bonâ fide* called upon to pay" the first two rates, although he had in fact paid them, was not entitled to be registered: *Moss v. Lichfield*, 8 Scott, N. R. 832; 7 M. & G. 72; 1 Lutw. 184; 14 L. J. C. P. 56; 8 Jur. 1075; B. & Arn. 330.

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(a) See note (a), *ante*, on p. 330.



*A claim to be rated (a), made under section 30 of Reform Act, 1832, held to be good only for the rate in force when the claim was made.*

CITY OF LONDON. On 26th July, 1837, L. (on the list of voters, at the revision of 1844), was the occupier of a warehouse, as tenant, and on or about that day he claimed to be rated in respect thereof.

At the time of the claim there was a rate for the parish in which the premises were situate, but, there being no rate due in respect of the premises themselves, the overseers neglected to put L.'s name on the rate for the time being.

Subsequent rates were made in the parish between 26th July, 1837, and 31st July, 1843, and two rates were made between 31st July, 1843, and 31st July, 1844. L. had occupied the said premises from 26th July, 1837, to 31st July, 1844, inclusive, but he was not, nor did he make any claim to be, rated in respect of such premises, to any rate made after 26th July, 1837.

Held, affirming the barrister's decision, that the operation of the claim was limited to the rate for the time being when the claim was made (b), and, consequently, that L. could not "be deemed to have been rated" in respect of the premises during the time of his occupation thereof required by sect. 27(c) of 2 Will. IV. c. 45, and was therefore not entitled to the franchise: *Wansey v. Perkins* (Lockey's case), 7 M. & G. 145; 1 Lutw. 249; 14 L. J. C. P. 59; 8 Scott, N. R. 970; B. & Arn. 402.

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(a) A claim to be rated is no longer necessary; see section 19 of the Poor Rate Assessment and Collection Act, 1869, and section 14 of the Parliamentary and Municipal Registration Act, 1878.

(b) The necessity of renewing the claim was dispensed with by 14 & 15 Vict. c. 14, s. 1.

(c) Repealed, save as appears in note (b), *ante*, on p. 103.

*“Rate for the time being,” within section 30 of Reform Act, 1832, held to mean last rate perfected by allowance and publication, notwithstanding the period for which it was made has expired.*

CITY OF LONDON. The appellant on the list of occupiers was objected to on the ground that he had not been duly rated.

A rate was made on 28th September, 1844, allowed on the 4th October following, and published on 6th, and it purported to be made for thirteen weeks, from 16th September to 16th December.

A new rate was made 23rd December, 1844, allowed on 3rd January, 1845, and published on 5th, purporting to be made for thirteen weeks from 16th December, 1844, to 17th March, 1845.

The appellant, not being in the first-mentioned rate, claimed on 27th December to be rated (*a*). He was duly rated to the rate of 23rd December, 1844, and to the subsequent rates.

The court held, that, as the claim was made before the second rate was allowed and published (*b*), the first rate was in point of law the rate for “the time being,” within section 30 of 2 Will. IV. c. 45, and, consequently, that the appellant, having claimed to be rated (*a*) thereto, must “be deemed to have been rated,” within the meaning of the above-mentioned section; TINDAL, C. J., saying (2 C. B. 116), “It was never intended in a case like this, that, because the time had expired for which a rate was made, the rate itself must be held to have expired:” *Bushell v. Luckett*, 2 C. B. 111; 15 L. J. 89; 1 Lutw. 398; 10 Jur. 113.

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(*a*) See note (*a*), *ante*, on p. 333.

(*b*) See section 17 of the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41).

*A mere expression of readiness to pay whatever rates may be due, not a "tendering" of such rates, within section 30 of 2 Will. IV. c. 45.*

CITY OF WESTMINSTER. The appellant claimed to be registered in respect of his occupation, as tenant, of a house.

He had never been rated (*a*) for the premises.

On 20th July (next preceding the revision) there remained a sum of £3 2s. 6d. unpaid of rates due the preceding 6th April.

In the previous June the appellant delivered to the overseer a notice of claim to be rated (*b*), and asked him whether there were any rates due; the overseer saying that he did not know, the appellant added:—"If there are, I am prepared to pay them;" but he did not produce, or offer any money: the overseer said, "I'll see to it." The appellant then went away, and nothing more was said or done in the matter.

The revising barrister decided, that there was no proof of a sufficient tender, within section 30 of the Reform Act, 1832; that the appellant could not, therefore, be deemed to have been rated (*a*), within the meaning of that section, and, consequently, was not entitled to be registered.

Held, affirming the decision, that, whether or not anything short of a *legal* tender would be a compliance with the Act, what occurred in the present case was clearly insufficient: *Bishop v. Smedley*, 2 C. B. 90; 1 Lutw. 384; 15 L. J. C. P. 73; 10 Jur. 269.

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(*a*) See note (*a*), *ante*, on p. 330.

(*b*) See note (*a*), *ante*, on p. 333.

*Where name of occupying tenant of a house was interlined in rate book between that of his landlord, who was rated for the house in question, and that of a person rated for other premises, nothing being carried out opposite tenant's name, which was not bracketed with landlord's; this was held a sufficient rating of tenant.*

*Statement of overseers that in thus placing tenant's name in rate they did not intend to rate him, immaterial.*

CITY OF LONDON. The appellant, the occupying tenant of a house for which his landlord was rated and paid the rates, claimed to be rated (a) in respect thereof.

In consequence of such claim, the overseers inserted the appellant's name in the rate immediately under that of his landlord, but without connecting the two names by a bracket or otherwise, and without filling up the columns opposite the appellant's name.

The rate appeared in the following form:—

|   |  |        |                     |         |         |     |
|---|--|--------|---------------------|---------|---------|-----|
| 2 | Thomas Haynes.                             | House. | 18, Coleman street. | £<br>67 | £<br>50 | &c. |
| 3 | Joshua Pariente.<br>A. B. (another party). | House. | &c., &c.            | &c.     | &c.     | &c. |

One of the overseers stated that in thus inserting the appellant's name in the rate they had no intention to rate him for anything.

Held, that the appellant was sufficiently rated, and that the statement of the overseers was immaterial: *Pariente v. Luckett*, 2 C. B. 177; 1 Lutw. 441; 15 L. J. C. P. 83; 10 Jur. 115; B. & Arn. 700.

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(a) See note (a), *ante*, on p. 333.

*Payment of rates by landlord in pursuance of agreement with tenant, a bonâ fide payment by tenant, within section 75 of Registration Act, 1843.*

*Insertion of wrong number of house in rate book, an "inaccurate description," within same section.*

CITY OF LONDON. The appellant was on the list of voters in respect of his occupation of a "house, No. 4, Golden lane." He also claimed as occupier of a "house, No. 3, Golden lane."

By a mistake of the overseers, he was inserted in the rate book for No. 4, instead of No. 3.

He occupied the house, No. 3, at an annual rent of £27, under an agreement with his landlord that the latter should pay the rates.

His landlord had called upon him to pay, and he had paid all the rent due in respect of the house.

And the landlord had been called upon to pay, and had paid, all poor rates due in respect thereof.

Held, that the appellant had, under the circumstances stated, been *bonâ fide* called upon to pay, and had, through his landlord, *bonâ fide* paid, the rates within the meaning of 6 Vict. c. 18, s. 75.

*Semble*, that the appellant was sufficiently rated within 2 Will. IV. c. 45, s. 27 (a), notwithstanding that No. 3 was described as No. 4; but

Held that, at all events, such "inaccurate description" was cured by 6 Vict. c. 18, s. 75: *Cook v. Luckett*, 2 C. B. 168; 1 Lutw. 432; 15 L. J. C. P. 78; 10 Jur. 116; B. & Arn. 647.

*Where name of occupying tenant was inserted in rate book under that of his landlord, against whose name alone the premises were entered in the rate, nothing being carried out opposite tenant's name, which was not bracketed with landlord's; this was held a sufficient rating (b) of tenant.*

CITY OF LONDON. The appellant's name was on

(a) Repealed, save as appears in note (b), *ante*, on p. 103.

(b) See note (a), *ante*, on p. 330.



the list of voters in respect of "part of a house," which part he occupied as tenant.

The landlord occupied that part of the house not occupied by the appellant.

The appellant's name was, in all the rates made in the qualifying year, under that of his landlord.

The house in question was carried out against the landlord's name alone, nothing being carried out opposite that of the appellant, nor were the two names connected by bracket or otherwise.

Held, that the appellant was sufficiently rated: *Judson v. Luckett*, 2 C. B. 197; 1 Lutw. 490; 15 L. J. C. P. 163; 10 Jur. 252; B. & Arn. 707.

*Poor rate not allowed by two justices, a nullity: voter not disqualified by non-payment thereof.*

BOROUGH OF SHAFTESBURY. The appellant was objected to on the list of scot and lot voters for the parish of Shaston St. Peter, on the ground that he had not paid a poor rate.

The rate in question was made in June, 1848, and the allowance thereof was made in the following terms:—

"The foregoing rate or assessment is allowed and confirmed by us, two of Her Majesty's justices of the peace for the borough of Shaftesbury.

"A. B. }  
"C. D. } Churchwardens."

A. B. was a justice of the peace for the borough, and churchwarden of the parish of Shaston St. Peter, and C. D. was churchwarden of the parish, but not a justice of the peace for the borough.

Held, that the rate not having been allowed by two justices, as required by 43 Eliz. c. 2, s. 1, was a nullity, and, consequently, the appellant was not disqualified by reason of his not having paid it (a):

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(a) Want of due publication is equally fatal to the validity of a poor rate; see 17 Geo. II. c. 3, s. 1; 7 Will. IV. & 1 Vict. c. 45, s. 2: *Itur v. Newcomb*, 4 T. R. 368; *Sibbald v. Roderick*, 11 Ad. & E. 38; and *Ormerod v. Chadwick*, 16 M. & W. 367.

As to non-payment of a duly published poor rate, the allowance of which was possibly defective, but which was good on its face, see *Baker v. Locke*, 18 C. B., N. S. 52, *post*, pp. 341, 342.

*Fox v. Davies*, 6 C. B. 11; 13 Jur. 155; 18 L. J. C. P. 48; 12 L. T. 244; S. C. nom. *Fox v. The Overseers of Shaston St. Peter, Shaftesbury*, 2 Lutw. 97.

*Occupier of premises in succession, within section 28 of 2 Will. IV. c. 45, may acquire the franchise without having been rated (a) in respect of the second house.*

BOROUGH OF READING. J. was on the list of voters at the revision of 1859, in respect of successive occupation.

He occupied a house in Crown Street from July to December, 1858, and was duly rated (a) in respect of it. In December, 1858, he moved to a house in Boulton's Walk.

A rate was made in April, 1859, in which his name was not inserted.

J. made no application to be rated (a), but the collector called on him and he paid the rate, for which the collector gave the usual receipt.

Held, that whether or not J. was properly rated (b) within section 27 (c) of 2 Will. IV. c. 45, in respect of the second house, he was entitled to be registered as an occupier of premises in succession under section 28, inasmuch as he had *paid* all rates in respect of such premises (d): *Rogers v. Lewis*, 7 C. B., N. S. 29;

(a) See note (a), *ante*, on p. 330.

(b) ERLE, C. J., inclined to think that the same construction ought to be put upon "rating" for the purpose of conferring a qualification to vote, as that which, in settlement cases, had been put upon the word "charged" or "assessed" for the purpose of a settlement under the poor laws, and, therefore, that the voter in the above case (assuming the necessity of his being rated for the second house) being the person *intended* to be rated, was sufficiently "rated" to satisfy the statute. It may be doubted, however, whether, inasmuch as section 30 of the Reform Act, 1832, provided for claims in consequence of omission from the rate, the settlement cases were analogous.

(c) Repealed, save as appears in note (b), *ante*, on p. 103.

(d) Some of the expressions of the court seem to favour the supposition, that two distinct franchises were created by sections 27 and 28 respectively, and that, whereas both rating and payment of rates were requisite to qualify in respect of a continuous occupation of the same premises under section 27, payment alone sufficed in cases of successive occupation under section 28.

K. & G. 279; 29 L. J. C. P. 85; 8 W. R. 279; 6 Jur., N. S. 612.

*Claim to be rated (a) held to be well served upon one, who had been duly appointed assistant overseer under 59 Geo. III. c. 12, s. 7, and who had acted as such ever since he was so appointed, although prior to such claim his salary had been increased by the vestry without any fresh appointment by justices.*

BOROUGH OF ASHBURTON. The respondent was objected to on the list of voters for the parish of A., on the grounds that he had not been duly rated, and that his notice of claim to be rated was invalid.

On 15th November, 1862, the respondent served on Y. a claim to be rated to the then existing rate, which was the first rate for the electoral year. He was not put on that rate, but was rated to all subsequent rates.

Y. was on 21st April, 1859, duly nominated by the vestry, under the provisions of 59 Geo. III. c. 12, s. 7, to be assistant overseer at a fixed salary.

On 30th August, 1859, this nomination was duly confirmed by warrant of appointment by two justices, pursuant to the same section.

Sometime before 25th March, 1861, Y. gave notice to the board of guardians of the union of which the parish of A. formed part, of his intention to resign, but prior to Lady-day he withdrew such notice.

At a vestry meeting held 25th March, 1861, a resolution was passed in favour of increasing the assistant overseer's salary to a certain sum specified in such resolution.

Y. had continued to perform all the duties of assistant overseer at such increased salary, but he had never received *any fresh warrant of appointment* by the justices (b).

(a) See note (a), *ante*, on p. 333.

(b) The 7th section of 59 Geo. III. c. 12, provides that it shall be lawful for the inhabitants of any parish in vestry assembled to nominate and elect any discreet person or persons to be assistant overseer or overseers of the poor of such parish, and to determine

Held, that Y. was an "overseer," within 2 Will. IV. c. 45, s. 30, to whom a claim to be rated might be made, and, therefore, that the respondent's claim was well served (a): *Caunter v. Addams*, 15 C. B., N. S. 512; H. & P. 50; 33 L. J. C. P. 68; 12 W. R. 1105; 9 Jur., N. S. 1295; 9 L. T., N. S. 391.

*Rate, good on the face of it, and unappealed against, is "payable from" a voter under section 27 (b) of Reform Act, 1832, though it may not have been signed by a majority of the parish officers, as required by 43 Eliz. c. 2, s. 1.*

**BOROUGH OF TAUNTON.** The appellant was on the list of voters for the parish of T. as an occupier, and was objected to for non-payment of poor-rate.

The parish of T. had two churchwardens, four overseers, and an assistant overseer. The latter was appointed under 59 Geo. III. c. 12, s. 7, and his warrant of appointment required him to assist the overseers in the performance of all the duties incident

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and specify the duties to be by him or them performed; and to fix a yearly salary. The act then empowers any two justices "by warrant under their hands and seals to appoint any person or persons who shall be so nominated and elected to be assistant overseer or overseers of the poor, for such purposes, and with such salary, as shall have been fixed by the inhabitants in vestry . . . and every person to be so appointed assistant overseer shall be and he is hereby authorized and empowered to execute all such of the duties of the office of overseer of the poor as shall in the warrant for his appointment be expressed, in like manner and as fully, to all intents and purposes, as the same may be executed by any ordinary overseer of the poor; and every person or persons so appointed shall continue to be an assistant overseer of the poor until he or they shall resign such office, or until his or their appointment shall be revoked by the inhabitants of the parish in vestry assembled, and no longer."

(a) By the interpretation clause (section 101) of 6 Vict. c. 18, it is enacted, that "the words 'overseer,' or 'overseers of the poor,' shall extend to and mean all persons who by virtue of any office or appointment shall execute the duties of overseers of the poor, by whatever name or title such persons may be called, and in whatsoever manner they may be appointed."

(b) Repealed, save as appears in note (b), *ante*, on p. 103.

to the office of overseer of the parish, except the collection of rates; he was also duly appointed collector of rates by the board of guardians.

During the qualifying period of the appellant's occupation, a poor rate was made and signed by the two churchwardens, one of the overseers, and the assistant overseer. It was allowed by two magistrates (*a*), who, in the usual form appended their signatures to the certificate of allowance, and it was duly published. The appellant had not paid that rate (*b*). It had not been appealed against, and the time for appealing had expired.

The appellant's name having been struck out at the revision, it was contended on his behalf, on appeal, that the rate was void, on the ground that it was not signed by a majority (*c*) of the parish officers, as the assistant overseer had no power to join in making it.

Held, that whether or not the assistant overseer could legally join in making the rate, it was apparently valid on the face of it, and, consequently, the non-payment thereof by the appellant disentitled him to be registered as a voter under section 27 of 2 Will. IV. c. 45.

*Seemle*, that an assistant overseer appointed under 59 Geo. III. c. 12, s. 7, may legally join in making a poor rate if his warrant of appointment do not exclude that duty: *Baker v. Locke*, 18 C. B., N. S. 52; H. & P. 137; 34 L. J. C. P. 49; 11 Jur., N. S. 65; 11 L. T., N. S. 567; 13 W. R. 258.

(*a*) 43 Eliz. c. 2, s. 1.

(*b*) It is not stated in the case that the rate, although made during the qualifying year, was made at a time consistent with its having become payable from the appellant previously to 5th January in such year. See 11 & 12 Vict. c. 90.

(*c*) 43 Eliz. c. 2, s. 1.



*Revising barrister having found that voter had been sufficiently rated and had paid all rates, the court, being of opinion that the evidence was sufficient to warrant such findings, would not review the decision.*

BOROUGH OF KIDDERMINSTER. The respondent owned and occupied a house and garden within the borough ; he also owned two other houses therein.

Some years prior to the revision he compounded under a local Act (4 & 5 Vict. c. 72) for the rates upon the three houses and garden for one year.

At the expiration of the year and down to July, 1864 (the year of the revision), the overseers continued to assess the premises as before, although no new composition was entered into.

Subsequently to the respondent compounding, as above stated, and previously to 31st July, 1863, he made improvements in the house and garden in his occupation, and they consequently became worth more than £10 a year.

In October, 1863, the respondent claimed to be rated separately and to the full rate in respect of the last-mentioned premises, for the purpose, as he then stated to the overseer, of "getting his vote," but he did not at the time pay or tender the rates then due.

No alteration was made in the rating. The respondent afterwards, and before 20th July, 1864, paid to the overseers a sum more than sufficient to cover the rates due before 5th January, 1864, in respect of the house and garden in his own occupation, but not sufficient to cover the rates due before that time in respect of such premises jointly with the other two houses.

The respondent made no specific appropriation of the sum paid by him, and the overseers applied it in reduction of the whole amount due.

The revising barrister having found that the respondent was sufficiently rated in respect of the house

and garden occupied by him, and that he had paid all his rates in respect of them,

The court held, that the evidence was sufficient to warrant such findings, and therefore refused to interfere: *Powell v. Jones*, 18 C. B., N. S. 83; H. & P. 165; 11 L. T., N. S. 600; 11 Jur., N. S. 17; 13 W. R. 273.

*Revising barrister having found that voter had been sufficiently rated (a) and had paid all rates, the court, being of opinion that the evidence was sufficient to warrant such findings, would not review the decision.*

BOROUGH OF KIDDERMINSTER. This was a similar case to *Powell v. Jones*, 18 C. B., N. S. 83, *supra*, as to the rating point. There were, however, no arrears unpaid. It was agreed that the case should abide by the judgment in *Powell v. Jones*: *Powell v. Pugh*, H. & P. 171, *note*.

*Proportion of rate, which incoming tenant was "liable to pay" under 17 Geo. II. c. 38, s. 12, held, in the absence of a demand from the overseers, not to "have become payable from him," within section 27(b) of 2 Will. IV. c. 45.*

BOROUGH OF CHELTENHAM. The 12th section (c) of 17 Geo. II. c. 38, after reciting that "persons frequently remove out of parishes and places without paying the rates assessed on them, and other persons do enter and occupy their houses or tenements part of the year, by reason whereof great sums are annually lost to such parishes and places," enacts that "where any person or persons shall come into or occupy any house, &c., out of or from which any other person assessed shall be removed, or which at the time of making such rate was empty or unoccu-

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(a) See note (a), *ante*, on p. 330.

(b) Repealed, save as appears in note (b), *ante*, on p. 103.

(c) Repealed by 32 & 33 Vict. c. 41, s. 16.

pied, that then every person so removing from, and every person so coming into or occupying the same, shall be liable to pay to such rate in proportion to the time that such person occupied the same respectively . . . . which said proportion, in case of dispute, shall be ascertained by any two or more of his Majesty's justices of the peace."

B., an occupier, was objected to for non-payment of a portion of one of the poor rates. The poor rates for the parish in which the qualifying premises were situate, were made twice a year. A rate was made in April, 1863, and another (the next) in the following September, which extended to March, 1864 (the year of the revision).

B. went into occupation during the currency of the April rate, and before the 1st of August, 1863; he had paid no portion of such rate (*a*), which was not demanded of him, neither was his name inserted therein.

Held (WILLIAMS, J., *dissentiente*), that in the absence of a notice from the parish officers to B. that his proportion of the April rate was unpaid, such proportion had not "become payable from him" within section 27 (*b*) of 2 Will. IV. c. 45, and, therefore, he was not disqualified for the franchise by reason of his not having paid it (*c*): *Flatcher v. Boodle*, 18

(*a*) It was not stated in the case, but the court assumed, that the rate was not paid by the outgoing tenant.

(*b*) Repealed, save as appears in note (*b*), *ante*, on p. 103.

(*c*) WILLES, J., in delivering his judgment in the above case, distinguishes between a rate made *during* the voter's occupation, and a rate made *prior* thereto. Payment by the voter of the former was a condition precedent to his being placed on the register, and he was not allowed to excuse himself on the ground of any laches in the overseers; for after a rate had been duly published, it immediately became payable (in so far as the franchise was concerned) from the persons named in it, except from voters paying scot and lot, who did not forfeit their right to be registered as voters through non-payment of poor rate, unless such rate had been demanded from them. See Elliott on Qualifications and Registration, 197.

It may be doubted, whether inasmuch as section 16 of 32 & 33 Vict. c. 41 (substituted for section 12 of 17 Geo. II. c. 38), requires

C. B., N. S. 152; H. & P. 238; 11 Jur., N. S. 67; 13 W. R. 340; 34 L. J. C. P. 77; 11 L. T., N. S. 630.

*A poor rate allowed during the twelve months commencing 31st July, 1867, but signed by the overseers before that date, held not a rate "made" during qualifying year, 1867-8, within 30 & 31 Vict. c. 102, s. 3, sub-s. 3.*

BOROUGH OF MALMESBURY. The respondent, on the list of inhabitant occupiers at the revision of 1868, was objected to on the ground that he had not been duly rated.

A poor rate for the respondent's parish purported by its heading to have been made by the overseers on 18th July, 1867, and on each page of it there were the words "rate made on the 18th day of July, 1867." The rate was allowed (a) by the justices on 4th September following.

The respondent was not rated to this rate.

Held, that the rate in question was not a rate "made" within the meaning of 30 & 31 Vict. c. 102, s. 3, sub-s. 3, during the qualifying period (b), and, therefore, not one to which the respondent was required to be rated (c) for the purpose of the franchise: *Jones v. Bubb*, L. R. 4 C. P. 468; 38 L. J. C. P. 57; 1 H. & C. 128; 17 W. R. 205; 19 L. T., N. S. 483.

the overseer to enter in the rate book the name of the incoming tenant, with the date of the commencement of his occupation, such insertion might not be held to dispense with the necessity of notifying to him (in so far as his right to the franchise is concerned) that his proportion of the rate is in arrear. If so, the decision in *Flatcher v. Boodle* will be inapplicable to any future case.

(a) See 32 & 33 Vict. c. 41, which enacts (section 17), that "a poor rate shall be deemed to be made on the day when it is allowed by the justices."

(b) See now section 7 of the Parliamentary and Municipal Registration Act, 1878.

(c) See note (a), *ante*, on p. 330.

*Occupiers of small dwelling-houses in boroughs which had adopted the Small Tenements Act were entitled to be placed on the parliamentary register in 1868, although they had not been rated to, or paid, poor rates made between 15th August, and 29th September, 1867.*

BOROUGH OF WHITEHAVEN. The Representation of the People Act, 1867, provides (section 3) that in order to be entitled to vote for a borough, the occupier of a dwelling-house must have been rated as an ordinary occupier to all poor rates (if any) made in respect of the premises during the qualifying year, and (section 7) that "where the owner is rated at the time of the passing of this Act" (15th August, 1867) "to the poor rate in respect of a dwelling-house, or other tenement, situate in a parish wholly or partly in a borough, instead of the occupier, his liability to be rated in any future poor rate shall cease . . . provided (1) that nothing in this Act contained shall affect any *composition* existing at the time of the passing of this Act, so nevertheless that no such composition shall remain in force beyond the 29th of September next."

The owner of small dwelling-houses in a borough which had adopted the Small Tenements Act (13 & 14 Vict. c. 99), made an agreement with the parish under the provisions contained in the latter part of section 4 of that Act, to pay a composition in lieu of the full ordinary rate from 25th March, 1867, to 25th March, 1868 (the year of the revision).

Two rates for the relief of the poor were made in 1867, viz., on 13th March, and the 5th September, and the owner had paid the composition as soon as it became due under each of them. The rate of the 5th September, 1867, remained in force until superseded by another made on the 13th February, 1868.

In respect of the latter rate the occupiers were rated as ordinary occupiers.

Held, that the agreement under 13 & 14 Vict.



c. 99, s. 4, was a "composition" within proviso (1) of 30 & 31 Vict. c. 102, s. 7; that, by virtue of that proviso, the owner's liability ceased on 29th September, 1867, and not on 15th August, 1867 (the date of the passing of the Act), and that, consequently, the occupiers were entitled to the franchise under section 8: *Mason v. Bennett*, L. R. 4 C. P. 502; 1 H. & C. 101; 38 L. J. C. P. 48; 19 L. T., N. S. 604.

*Occupiers of small dwelling-houses in boroughs which had adopted the Small Tenements Act were entitled to be placed on the parliamentary register in 1868, although they had not been rated to, or paid, poor rates made between 15th August and 29th September, 1867.*

BOROUGHs OF NORTHALLERTON AND MALMESBURY.  
[The statutory enactments given in *Mason v. Bennett* are to be taken as forming part of each of these cases.]

The owners of small tenements in the above-named boroughs, wherein the Small Tenements Act (13 & 14 Vict. c. 99) had been adopted, were assessed to the poor-rate at three-fourths of the full rateable value pursuant to the provisions contained in the earlier part of section 4 of that Act.

The only rate for the relief of the poor made in 1867 subsequent to the passing of the Representation of the People Act, 1867, was made on the 4th September, and the owners were assessed thereto, and paid the same according to the above reduced scale.

Two poor rates were made in 1868 (the year of the revision), one on 14th February, and the other on 21st May, and in respect of these the occupiers were rated as ordinary occupiers.

Held, that the assessment at less than the full amount of the rate under 13 & 14 Vict. c. 99, s. 4, was a "composition" within proviso (1) of 30 & 31 Vict. c. 102, s. 7; that by virtue of that proviso the owners' liability ceased on the 29th September, 1867,

and not on the 15th August, 1867 (the date of the passing of the Act); and, consequently, that the occupiers were entitled to the franchise under section 8: *Trotter v. Trevor* (Anderson's case), *Hanks v. Jones*, L. R. 4 C. P. 502, 510, 515; 1 H. & C. 109, 117; 38 L. J. C. P. 51, 53; 19 L. T., N. S. 606; *Bishop v. Jones*, 1 H. & C. 109, 117; 19 L. T., N. S. 606.

*Tenant occupier who, through his landlord, had paid his rates, but whose name was omitted from rate book (a), held not entitled to be registered.*

BOROUGH OF HASTINGS. A. had occupied a dwelling-house, as tenant, for the requisite period, and by agreement with his landlord, the latter was to pay the rates for him, he, in consideration thereof, paying a larger sum as rent than he would otherwise have done. Two rates were made for the relief of the poor in the parish in which the dwelling-house was situate, between 31st July, 1867, and 31st July, 1868 (the year of the revision). In neither was any name inserted under the head "name of occupier," but the name of the landlord appeared under the head "name of owner." Both rates had been collected from, and paid by, the landlord. A. had duly paid his rent to the landlord in pursuance of the agreement.

The revising barrister decided, that A. had been rated to, and had paid, all rates for the relief of the poor, within the meaning of section 3 of 30 & 31 Vict. c. 102, as construed with section 75 of 6 Vict. c. 18, and, as he was duly qualified in other respects, retained his name on the list.

The court reversed the decision (b): *Norris v. Hastings* (Andrew's case), L. R. 4 C. P. 498.

(a) See note (a), *ante*, on p. 330.

(b) Another appeal came before the court at the same time as the above, but the circumstances were precisely similar to those in Andrew's case, except that the overseers had written the voter's name in the rate book in respect of both rates, though without

*Condition imposed on occupier by section 14 of Boundary Act, 1868, held not to apply to a case where at the time of registration no poor rate had been made since the passing of the Act.*

BOROUGH OF DENBIGH. The fourteenth section of the Boundary Act, 1868 (31 & 32 Vict. c. 46), enacts, that, "where, by reason of an alteration of the boundary of any borough by this Act, the occupier of a dwelling-house or other tenement (for which the owner at the time of the passing of this Act is liable to be rated instead of the occupier) would be entitled to be registered as an occupier at the next registration of parliamentary voters if he had been rated to the poor-rate for the whole of the required period, such occupier shall, notwithstanding he has not been so rated, be entitled to be registered, subject to the following condition:—That he has been duly rated as an ordinary occupier to all poor rates in respect of the premises made after the passing of this Act."

B. occupied a dwelling-house brought by the Boundary Act, 1868, within the limits of the borough of Denbigh.

The owner of the dwelling-house in question was liable to be rated for it at the time of the passing of the Act.

No poor rate had been made for the township, in which the house was situate, between the time of the passing of the Act and the then next registration of parliamentary voters, nor had B. made any claim to be rated.

any claim on the part of the voter, and after the making of the second rate. The court held that this additional fact could in no way affect the question. *Norris v. Hastings* (Imeson's case), L. R. 4 C. P. 498, 500.

The necessity for the insertion of the occupier's name in the rate book under circumstances, such as existed in the above case, is now, it seems (in so far as the franchise is concerned), dispensed with by section 19 of 32 & 33 Vict. c. 41, as explained by section 14 of 41 & 42 Vict. c. 26. See also *Barton v. Birmingham*, 2 H. & C. 393, *post*, pp. 363, 364.

Held, that no rate having been made for the township since the passing of the Act, the condition prescribed by section 14 did not apply, and, consequently, B. was entitled to be registered: *Clarke v. Brown*, L. R. 4 C. P. 500; 1 H. & C. 181.

*Rate signed, allowed, and published, within the qualifying year, held to be a rate "made" (a) during that period, within 30 & 31 Vict. c. 102, s. 3, although it purported to have been made at a date prior thereto.*

*Claim to be rated (b) made on behalf of another without his knowledge of no avail for the franchise.*

*Claim so made, if capable of ratification, must be ratified within qualifying year.*

**BOROUGH OF BURNLEY.** The appellant was on the list of occupiers at the revision of 1868, and was objected to on the ground that he had not been duly rated.

A rate for the relief of the poor purported by its heading to have been made on 18th April, 1867.

It was not in fact signed by the overseers until August, 1867, when it was also allowed by the justices, and published. The appellant's name was not then included in the rate, but it was afterwards inserted under the following circumstances.

The appellant was a tenant of Messrs. Dugdale, a business firm in the borough, who had for years paid the rates of the appellant and of their other tenants in full, they in consideration thereof paying a higher rent.

After the publication of the rate in question, a member of the firm requested the overseer, in general terms, to put the names of all the tenants of the firm on the rate. This the overseer accordingly did.

The appellant had not been communicated with relative to such insertion of his name, and he was in no way a party to it.

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(a) See note (a); *ante*, on p. 346.

(b) See note (a); *ante*, on p. 333.

Messrs. Dugdale subsequently gave the overseers a cheque for the amount of all their tenants' rates.

The appellant appeared at the revision court to support his vote.

- Held, 1. That the rate in question was not "made," within the meaning of 30 & 31 Vict. c. 102, s. 3, on 18th April, 1867, but in August, 1867, and was, therefore, one to which the appellant should have been rated, in order to be registered as a voter in 1868 (a).
2. That the placing the appellant's name on the rate, under the circumstances stated in the case, was not a claim by him to be rated, within the meaning of 2 Will. IV. c. 45, s. 30.
3. That if there could be a ratification, the appellant's conduct in appearing at the revision court to support his vote was too late to operate as such; and that, consequently, he was not entitled to be registered: *Ainsworth v. Creeke*, L. R. 4 C. P. 476; 1 H. & C. 141; 38 L. J. C. P. 58; 19 L. T., N. S. 824.

*A claim to be rated (b) for "part of a house," followed by a joint rating, held insufficient to satisfy requirements of section 30 of Reform Act, 1832, and section 61 of Representation of People Act, 1867.*

CITY OF LONDON. The respondent was on the list of voters as occupier of a dwelling-house. He occupied exclusively, and as sole tenant, for his dwelling, certain rooms, which were not so structurally severed from the rest of the building as to constitute in themselves a house (c).

He had the exclusive control over the doors which

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(a) See note (a), *ante*, on p. 330.

(b) See note (a), *ante*, on p. 333.

(c) See now s. 5 of the Parliamentary and Municipal Registration Act, 1878.



shut the rooms off from the adjoining passage, and he had by virtue of his tenancy a right of way over the passage from his rooms to the house door, and in common with the other occupiers resident in the house perfect control over the house door, so as at all hours to be able to go in and out of the house as he liked.

The respondent had in due time claimed to be rated for the premises as for "part of a house."

In pursuance of such claim, the overseers had entered his name in the occupiers' column of the rate book, bracketed jointly with the other occupiers of the house; but no separate rating or assessment was carried out against his name.

Held, that whether or not the respondent was separately rateable, he could not be deemed, by virtue of section 30 of 2 Will. IV. c. 45, to have been separately rated, within section 61 of 30 & 31 Vict. c. 102, and was, therefore, not entitled to the franchise as an inhabitant occupier of a dwelling-house, within that section (a): *Cuthbertson v. Hains*, L. R. 4 C. P. 525; 1 H. & C. 184; 38 L. J. C. P. 109.

*Claim to be rated (b) inoperative, unless made within qualifying year.*

BOROUGH OF HORSHAM. The respondent claimed to be inserted in the list of voters in respect of his occupation of a "house."

He had never been rated; but he had paid, prior to 20th July, 1868 (the year of the revision), all the rates due in respect of the house up to the preceding 5th January.

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(a) The case, although containing a statement that "in all other respects the respondent was proved to be qualified to be on the register," did not state specifically either that no rates were due at the time of the claim, or that the respondent had paid or tendered the rate. The court were asked to infer payment or tender, but refused to do so. As a matter of fact, there was no rate due at the time of the claim. This appears from the cross appeal of *Hains v. Cuthbertson*, ante, p. 176.

(b) See note (a), ante, on p. 333.

On 24th August, 1868, he claimed to be rated to all rates made since 31st July, 1867.

The current rate at the time of the claim was a rate made 15th January, 1868 (*a*).

Held, that the qualification for the borough franchise, under section 3 of 30 & 31 Vict. c. 102, must be complete within the qualifying year, that the respondent's claim to be rated, having been made after the expiration of that period, was too late, and that it had no relation back, so as to operate as a claim made in due time, and that, consequently, the respondent was not entitled to be registered (*b*). *Agnew v. Reilly*, 2 Ir. C. L. R. 560, and *Muldorney v. Malcolmson*, 15 *Ibid.* 375, remarked on: *Medwin v. Streeter*, L. R. 4 C. P. 488; 1 H. & C. 157; 38 L. J. C. P. 180; 17 W. R. 380; 19 L. T., N. S. 827.

*To entitle occupier of part of a house to a vote under sections 3 and 61 of 30 & 31 Vict. c. 102, he must, notwithstanding section 19 of 32 & 33 Vict. c. 41, be separately rated to the relief of the poor, unless the case is brought within section 3, or section 4, of the last-mentioned Act (c).*

CITY OF LONDON. The 19th section of the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), enacts, "that the overseers in making out the poor rate, shall in every case, whether the rate is collected from the owner or occupier, or the owner is liable to the payment of the rate instead of the occupier, enter in the occupiers' column of the

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(*a*) It is not stated in the case that this was the first rate made after the commencement of the qualifying year; but the court appear to have assumed that no other rate had been made subsequent to 31st July, 1867.

(*b*) See note (*a*), *ante*, on p. 333.

(*c*) But see now section 14 of the Parliamentary and Municipal Registration Act, 1878, referred to in note (*a*), *post*, on p. 356.

rate book the name of the occupier of every rateable hereditament, and such occupier shall be deemed to be duly rated for every qualification or franchise as aforesaid," and provides that "any occupier whose name has been omitted, shall, notwithstanding such omission, and that no claim to be rated has been made by him, be entitled to every qualification and franchise depending upon rating, in the same manner as if his name had not been so omitted."

The appellant was an inhabitant occupier of two rooms being part of a house.

The rest of the house was occupied by two other tenants.

The rooms occupied by the appellant were let to him as tenant from week to week, at a weekly rent of 4s. 6d., under an agreement that the owner (the appellant's landlord) should thereout pay all the rates on behalf of the appellant in respect of the premises occupied by him, the rent being higher in consequence of such agreement than it would otherwise have been.

The overseers had agreed with the owner to collect the rates from him, and had, in making out the poor rate, entered in the occupiers' column of the rate book the name of the appellant and the other two tenants against the number of the house; and in the appropriate columns, in line with the said names, the name of the owner, the rental, the rateable value (£14) of the whole house, and rate in the pound alone appeared.

No separate rating or assessment in respect of the appellant's part of the house was carried out opposite his name.

Held, that the appellant (the premises occupied by him not being separately rated) was not the occupier of a dwelling-house, within sections 3 and 61 of 30 & 31 Vict. c. 102, and that, there being neither an agreement in writing between the overseers and the owner to receive the rates from him, under section 3

of 32 & 33 Vict. c. 41, or an order of vestry for rating the owner instead of the occupier, under section 4, the 19th section of that Act did not apply (*a*), and, consequently, that the appellant was not entitled to the franchise: *Cross v. Alsop*, L. R. 6 C. P. 315; 1 H. & C. 444; 40 L. J. C. P. 53; 19 W. R. 131; 23 L. T., N. S. 589.

*Non-payment of a poor-rate made before, but excused (under 54 Geo. III. c. 170, s. 11) after commencement of qualifying year, held to disqualify for borough franchise.*

BOROUGH OF NEW SARUM. A. claimed to be inserted in the list of voters as an inhabitant occupier.

In June next previous to the commencement of the qualifying year a poor rate was made, to which he was duly rated in respect of the premises occupied by him.

The next poor rate was made in the following October, to which the landlord was rated, and with regard to which, and the rates subsequent thereto, no question was raised.

After the October rate had become payable, A. was duly excused by the justices under 54 Geo. III. c. 170, s. 11, from payment of the June rate, and he had never paid it.

Held, that the June rate, although made before the qualifying year, was a rate "that had become payable" by A. "up to 5th January" of such year, within section 3, sub-section 4, of the Representation of the People Act, 1867, and, consequently, that the non-payment thereof by him was, notwithstanding

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(*a*) This section (the construction of which was not necessary to the decision of the case) has now been declared by section 14 of the Parliamentary and Municipal Registration Act, 1878, to be of general application. See also *Smith v. Seghill*, L. R. 10 Q. B. 422, and *Barton v. Birmingham*, 2 H. & C. 393, *post*, p. 364.

his excusal, a disqualification for his acquirement of the franchise: *Abel v. Lee*, L. R. 6 C. P. 365; 1 H. & C. 515; 40 L. J. C. P. 154; 19 W. R. 625; 23 L. T., N. S. 844.

*Inhabitant occupier of houses in succession, within section 26 of Representation of People Act, 1867, may acquire the franchise without having been rated (a) in respect of the second house.*

CITY OF BATH. M. claimed to be inserted in the list of voters, and described his qualification as "houses in succession, 7, Taylor's court, from 13, Paradise street, Lyncombe and Widdicombe."

He had for a long time previously to, and up to, February, 1871 (the year of the revision), occupied a house in Paradise street, at an annual rent of £6, and had been rated to, and had paid, all poor rates made in respect thereof during such occupation.

In February, 1871, he removed direct into and occupied a house in Taylor's court, for which he agreed to pay a rent of £8 a year, his landlord agreeing, at the same time, to pay the rates.

In the following April a rate was made for the relief of the poor of the parish in which Taylor's court was situate.

M. was not, nor did he claim to be, rated to this rate, nor were any circumstances shown, which would have had the effect of bringing him within the benefit of section 19 of the Poor Rate Assessment and Collection Act, 1869; but all rates payable in respect of the last-mentioned premises occupied by him were, previously to 20th July, 1871, paid by his landlord.

Held, that the proviso of section 28 of the Reform Act, 1832, as interpreted by *Rogers v. Lewis*, 7 C. B., N. S. 29, must, by virtue of sections 56 and 59 of

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(a) See note (a), *ante*, on p. 330.



the Representation of the People Act, 1867, be read into section 26 of that Act; that it was sufficient, therefore, for M. to have paid the rates for the second house, without having been rated in respect thereof: that the payment by the landlord was, under the circumstances, a payment by M.; and that, consequently, M. was entitled to a vote: *Moger v. Escott*, L. R. 7 C. P. 158; 1 H. & C. 645; 41 L. J. C. P. 86; 20 W. R. 368; 26 L. T., N. S. 99.

*The rates which it is necessary that inhabitant occupier should have paid under section 3, sub-section 4, of 30 & 31 Vict. c. 102, are only those made and allowed after 5th January of year preceding qualifying year, and payable up to 5th January of qualifying year.*

BOROUGH OF CHELTENHAM. B. and C. were objected to on the list of house occupiers, at the revision of 1871.

B. had duly paid all the poor-rates which had become payable by him during the qualifying year in respect of the qualifying premises, but had not paid a rate of February, 1867, to which he was duly rated, and which had become payable by him in respect of such premises.

C. had duly paid all the poor-rates which had become payable by him during the qualifying year in respect of the qualifying premises, but had not paid two rates, one of April, 1869, and the other of October, 1869, to each of which he was duly rated, and each of which had become payable by him in respect of such premises.

Held, that the rates which it is necessary that a proposed voter should have paid before 20th July of the qualifying year are only those which have been made and allowed after 5th of January of the year preceding the qualifying year, and payable up to

5th January of the qualifying year (*a*), and, consequently, that the non-payment by B. of the February rate of 1867, and the non-payment by C. of the April and October rates of 1869, did not operate as a disqualification for the franchise: *Cull v. Austin, Austin v. Cull*, L. R. 7 C. P. 227, 229; 1 H. & C. 741, 744; 41 L. J. C. P. 153, 154; 20 W. R. 863, 864; 26 L. T., N. S. 767, 769.

*Description in rate-book of members of a firm by the name of the firm, without giving the names of the members, held a sufficient rating of the members, the facts of the case leading to the inference that they were the persons intended to be rated.*

*Such description (if inaccurate) cured by section 75 of 6 Vict. c. 18.*

EAST CUMBERLAND. G. A. appeared on the list of voters for the parish of Penrith, as "joint occupier of house and shop of the rateable value of £80 and upwards."

He was objected to as not having been duly rated.

The rate-book contained the following description in relation to him:—

| Name of occupier.           | Name of owner.         |
|-----------------------------|------------------------|
| <i>N. Arnison and Sons.</i> | <i>Nathan Arnison.</i> |

"N. Arnison" meant Nathan Arnison, who some years before the revision was rated as the sole occupier of the premises, which he then used for carrying on his business (that of a linen draper) by himself.

He subsequently took two of his sons, G. A., and T. B. A., into partnership, and got the overseers to

(*a*) It was also held that no excusal of such rates, whether made before or after the commencement of the qualifying year, can be pleaded in bar of a disqualification arising from their not having in fact been paid or tendered before 20th July of the qualifying year.

alter the rating from "N. Arnison" to "N. Arnison and Sons," such being the style of the new firm.

Nathan Arnison had retired from the business some years, and G. A., and T. B. A., had become the sole occupiers of the premises, whereon they continued to carry on the concern under the name of "N. Arnison and Sons."

For the last few years preceding the revision, the rates, when called for, had been paid by either G. A., or T. B. A., and a receipt given for them as received from "N. Arnison and Sons."

Held, that G. A. was rated, within 30 & 31 Vict. c. 102, s. 6, sub-s. 3, the inaccuracy of the description (if any) being cured by 6 Vict. c. 18, s. 75, and 31 & 32 Vict. c. 58, s. 30, and he was therefore entitled to be registered: *Little v. Penrith*, L. R. 8 C. P. 259; 2 H. & C. 26; 42 L. J. C. P. 28; 21 W. R. 122; 27 L. T., N. S. 552.

*An occupier, whose landlord had paid for him, under an illegal composition, a smaller sum for poor rate than that paid by ordinary occupiers, held not entitled to be registered, although landlord had afterwards, in September of qualifying year (the illegality of the composition having been discovered), paid the additional sum requisite to make up the full amount of rate.*

BOROUGH OF NEW WINDSOR. The respondent occupied as tenant a house in the borough.

Before the qualifying year he had agreed with his landlord (the owner of the house) that the rates should be paid by the latter, and included in the rent.

The owner had, previously to the qualifying year, agreed with the overseers to pay a composition on the rates.

The rateable value of the house was £10.

A poor rate, in which the names of both owner and respondent appeared, was made in the May previous to the qualifying year.

This rate was at 8*d.* in the pound, and the sum of 4*s.* 8*d.* was inserted in the rate book as the amount

of the composition payable by the owner, in respect of the house occupied by the respondent.

The owner paid the composition in due time.

It having been discovered subsequently to such payment that the composition was illegal by reason of 59 Geo. III. c. 12, s. 23, the owner, of his own accord, in September in the qualifying year, paid the overseers an additional sum of 2s. to make up the difference between the amount of the composition and the full amount of the rate.

Held, that the respondent had not paid an equal amount in the pound to that payable by other ordinary occupiers, within section 3, sub-sect. 4, of the Representation of the People Act, 1867 (a): *Durant v. Withers*, L. R. 9 C. P. 257; 2 H. & C. 202; 43 L. J. C. P. 113; 22 W. R. 156.

*The court were equally divided as to whether occupier of rooms in a dwelling-house (assuming them to be sufficient to qualify) must, in order to acquire the borough franchise under Representation of People Act, 1867, sections 3 and 61, have been separately rated (b) for such rooms to all rates in existence during qualifying year, or only to those made during such period.*

*The court were also divided as to whether part of a house, not structurally or practically separate from the rest, could constitute a dwelling-house within the above sections (c).*

*The exception in section 7 of same statute, does not apply to parliamentary borough in which, at the time of the passing of the Act, there was no statute in force by which owner could be rated instead of occupier.*

CITY OF LONDON. The respondent was on the list

(a) *Durant v. Fletcher* (a subsequent case), 43 L. J. C. P. 114, note, was, without argument, decided in accordance with the judgment in *Durant v. Withers*, the facts of the two cases being admitted to be undistinguishable.

(b) See note (a), ante, on p. 330.

(c) See section 5 of the Parliamentary and Municipal Registration Act, 1878.

of voters in respect of his occupation of a dwelling-house.

He had, during the qualifying year, occupied as tenant, part of a house, consisting of two rooms (not structurally separate from the rest of the house) in which he and his family entirely lived. These rooms were connected by a staircase and passage, which were used by the respondent in common with the tenants who occupied in a similar manner the other rooms in the house.

The landlord did not live on the premises, or retain any control over them.

The tenants had the exclusive control over the outer door.

Two rates were made during the qualifying year, viz., one in November, 1872, and the other in May, 1873.

In both of these rates the rooms occupied by the respondent were rated separately from the rest of the house at the sum of £3 10s., and the respondent was rated in respect of them.

The rooms were not rated separately from the rest of the house in a rate made in May, 1872, which was the last rate made before the commencement of the qualifying year.

At the time of the passing of the Representation of the People Act, 1867, there was no statute in force in the parish wherein the house in question was situate, authorizing the rating of the owner of small tenements, instead of the occupier.

Held, by KEATING and DENMAN, JJ., that the rooms occupied by the respondent constituted a dwelling-house, within sections 3 and 61 (a) of the Representation of the People Act, 1867, although they were not structurally separated from the rest of

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(a) The interpretation contained in section 5 of the Parliamentary and Municipal Registration Act, 1878, of "dwelling-house" is substituted for that contained in section 61 of the Representation of the People Act, 1867.



the house of which they formed part, and although they had not been rated separately therefrom to all the rates *in existence* during the qualifying year; that the words of sections 3 and 61 (a) were satisfied, if the part of the house in respect of which the franchise is claimed, has, during the whole of the qualifying twelve months, been occupied as a separate dwelling, and has been during that period separately rated, *i. e.* named in the rate as the subject-matter in respect of which its occupier has been separately rated, to all rates *made* during the qualifying year; and that, these conditions having been complied with in the present case, the respondent was entitled to be registered.

Held, by BRETT and HONEYMAN, JJ., that, as section 3, sub-sect. 2, requires that a dwelling-house should be occupied for the whole of the qualifying twelve months, and section 61 (a) defines a dwelling-house (when not an entire house) to be a part of a house occupied as a separate dwelling, and separately rated to the relief of the poor, it follows that such part of a house must be separately rated during the *whole* of the twelve months of occupation, and that, consequently, the respondent, not having been rated in respect of the premises occupied by him till November, 1872, was not entitled to be registered.

Held by BRETT, J., that the rooms were not occupied as a separate dwelling within section 61.

The opinion was also expressed by some members of the court, and apparently concurred in by all, that, as at the time of the passing of the Representation of the People Act, 1867, there was no statute in force in the respondent's parish, under which the owner of houses could be rated, the exception in section 7 did not apply: *Boon v. Howard*, L. R. 9 C. P. 277; 2 H. & C. 208; 43 L. J. C. P. 115; 30 L. T., N. S. 382; 22 W. R. 535.

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(a) See note (a), *ante*, on p. 362.

*Section 19 of 32 & 33 Vict. c. 41, applies not only to cases where owner is liable by agreement with the overseers under section 3, or by order of vestry under section 4, but also to cases where he is liable by agreement with the occupier, to pay the rates.*

BOROUGH OF BIRMINGHAM. H. had, during the qualifying period, occupied, as tenant, a counting house, for which he paid a yearly rent of £34.

He had agreed with the owner of the whole house, of which the counting-house formed part, that the owner should pay the rates, and the owner had accordingly been rated, and had paid the rates, for the whole house.

Held, that although the overseers had omitted H. from the rate book, and he had not claimed to be rated, his franchise was preserved by section 19 of 32 & 33 Vict. c. 41; for the operation of that section (a) was not restricted to cases where there had been an agreement in writing between the overseers and the owner to receive the rates from him under section 3, or an order of vestry for rating the owner instead of the occupier under section 4: *Smith v. Seghill*, L. R. 10 Q. B. 422, followed; *Cross v. Alsop*, L. R. 6 C. P. 315, *ante*, pp. 354—356, distinguished: *Barton v. Birmingham*, 2 H. & C. 393; 48 L. J. C. P. D. 87; 39 L. T., N. S. 352.

*The agreement in writing required by section 3 of Poor Rate Assessment and Collection Act, 1869, and the notice in writing required by section 4, sub-section 2, held to be conditions precedent to legality of allowances made under those clauses. Overseers held to have no power to waive performance of either of the conditions.*

BOROUGH OF NEW WINDSOR. A vestry order had been made under section 4 of the Poor Rate

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(a) See note (a), *ante*, on p. 356.

Assessment and Collection Act, 1869, for the rating of the owners of certain tenements instead of the occupiers; but, although no notice in writing had ever been given under sub-section 2 of that section, or agreement in writing entered into under section 3, the overseers in receiving payment of a rate from an owner, had allowed him 25 per cent., and the allowance, in so far as it exceeded 15 per cent., was sought to be justified under one or both of the above clauses.

Held, that the allowance in excess of 15 per cent. was not one which the overseers were empowered to make, and, consequently, that the enactment in section 7, that payment by the owner is to be deemed "payment of the full rate by the occupier," "notwithstanding any allowance or deduction which the overseers are *empowered* to make from the rate," did not preserve the occupier's franchise (*a*): *Bennett v. Atkins*, 2 H. & C. 430; L. R. 4 C. P. D. 80; 48 L. J. C. P. D. 95; 40 L. T., N. S. 66.

(*a*) It is now, however, enacted by section 2 of the Assessed Rates Act, 1879, that "where by way of commission or abatement or deduction under the principal Act (The Poor Rate Assessment and Collection Act, 1869), or purporting or assumed to be under the principal Act, an allowance or deduction has, before the passing of this Act, been or shall hereafter be actually made, the same shall, for the purpose of every qualification or franchise depending upon rating or upon payment of rates, be deemed to have been duly made in pursuance of every or any agreement, order, notice, or proceeding necessary for the validity thereof under the principal Act, and to have been and to be an allowance or deduction which the overseers were and are empowered to make from the rate under the principal Act; and no qualification or franchise depending upon rating or upon payment of rates shall be defeated by reason of such allowance or deduction not having been made in pursuance of an agreement in writing, order in writing, or notice in writing, or by reason of the want or insufficiency of any agreement, order, notice, or proceeding necessary for the validity thereof under the principal Act, or by reason of any informality or defect in the making thereof. . . ."

## ASSESSED TAXES.

*A quarter's house tax which, by virtue of 43 Geo. III. c. 161, s. 23, was payable on 20th December, 1851, was held to "have become payable" previously to the succeeding 5th January, within 2 Will. IV. c. 45, s. 27 (a), and 11 & 12 Vict. c. 90, although not demanded until after last-mentioned date.*

CITY OF WESTMINSTER. The appellant claimed a borough vote, his claim being free from objection, except that he was a defaulter in payment of assessed taxes.

Under the Reform Act, 1832, section 27 (a), no person could be registered as a borough voter unless he had paid, on or before 20th July in the qualifying year, all assessed taxes which had become payable from him in respect of the qualifying premises previously to 6th April then next preceding.

By 11 & 12 Vict. c. 90, the 5th January was substituted for the 6th April.

By 43 Geo. III. c. 161, s. 23, assessed taxes were payable *quarterly*, viz., on 20th June, 20th September, 20th December, and 20th March.

The collectors were, by 48 Geo. III. c. 141, s. 1, directed to collect the assessed taxes *half-yearly*, within 21 days after 10th October and 5th April, but that Act provided, that nothing contained therein should be construed to alter the times when the duties were payable under previous Acts.

The appellant was returned as a defaulter under section 12 of 6 Vict. c. 18, for not having paid on or before 20th July, 1852, the quarterly house tax of 20th December, 1851. This tax was not demanded of him until 10th April.

He paid it on 30th July.

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(a) Repealed, save as appears in note (b), *ante*, on p. 103.

Held, that the taxes which, by 43 Geo. III. c. 161, s. 23, were payable on 20th December, 1851, were taxes, which, by 11 & 12 Vict. c. 90, had become payable before the succeeding 5th January, although no demand for payment had been previously made, and therefore, the appellant was not entitled to be registered: *Ford v. Smedley*, 12 C. B. 622; 2 Lutw. 203; 22 L. J. C. P. 35; 16 Jur. 1159; 20 L. T. 96; 1 W. R. 67.

*Occupier of a "house" within section 27 (a) of Reform Act, 1832, who would under that section be disqualified by non-payment of inhabited house duty, is not the less disqualified because he occupies the ground floor as a "shop," and his qualification is so described in the list.*

**BOROUGH OF BRADFORD.** The respondent was objected to on the ground that he had not paid inhabited house duty. The nature of his qualification was described in the list as a "shop."

He was a member of a firm of linendrapers, who occupied, as owners, business premises in Bradford.

These premises consisted of a building, the ground floor of which was jointly occupied by the respondent and his partners as a shop; the upper stories were occupied as a dwelling-house by their servants, who resided there for the purpose of protecting the premises and attending to the business of the firm.

The shop was not structurally severed from the rest of the building.

The respondent and his partners had duly paid all the poor rates in respect of the premises, but had not paid the inhabited house duty, to which the premises were assessed.

The instructions issued by the commissioners of assessed taxes for the district were substantially as follows:

"For every inhabited dwelling-house which, with

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(a) Repealed, save as appears in note (b), *ante*, on p. 103.



the household and other offices, &c., therewith occupied and charged, is or shall be worth the rent of £20 or upwards by the year.

“Where any such dwelling-house shall be occupied by any person in trade, who shall expose to sale and sell any goods, &c., in any shop, being part of the same dwelling-house, and in the front and on the ground or basement story thereof, there shall be charged for every twenty shillings of such annual value of any such dwelling-house the sum of *sixpence*.

“And where any such dwelling-house shall not be occupied and used for any such purpose, and in manner aforesaid, there shall be charged for every twenty shillings of such annual value thereof the sum of *ninepence*.”

The revising barrister was of opinion that the building in question having been assessed on its full annual value to inhabited house duty, at the reduced rate of 6*d.* in the £, in accordance with the foregoing instructions, the *shop* was not, in fact, so assessed at all, and, consequently, that no assessed taxes had become payable by the respondent in respect of the shop, within the meaning of 2 Will. IV. c. 45, s. 27 (*a*), and he accordingly decided against the objection, and retained the respondent's name on the list.

The court reversed the decision: *Lee v. Bradford*, 1 H. & C. 733.

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(*a*) Repealed, save as appears in note (*b*), *ante*, on p. 103.

## CREATING VOTES.

*Conveyance not void under Splitting Act (7 & 8 Will. III. c. 25) unless vendor be a party to the object intended by the conveyance.*

CITY OF LICHFIELD. By 7 & 8 Will. III. c. 25, s. 6, conveyances in order to multiply voices, or split and divide the interest in any houses or lands among several persons, to enable them to vote at the election of members to serve in parliament, are declared void.

At the time of the passing of the Reform Act, 1832, freeholders in the city of Lichfield (a county of itself) had the right of voting in the election of members for that city.

G. having contracted in his own name with the proprietors of a house for the purchase of it at £292 5s., *bonâ fide* sold it to B. and five others in equal shares, and caused a conveyance of it to be made from the original owners to them.

The purchase-money was paid to the vendors by the hands of G., but it was the proper money of the sub-vendees.

G.'s object in proposing the purchase to the sub-vendees was to increase the number of voters for the city of Lichfield, but the object of the sub-vendees was a *bonâ fide* investment of their money, though they expected that the possession of the property would give them each a vote.

Held, that as it did not appear that the parties conveying were privy to the object (a) intended by the conveyance, the conveyance was not void under

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(a) The court refrained from expressing any opinion as to the illegality of such object in the absence of fraud or collusion. See *Alexander v. Newman*, 2 C. B. 122, *post*, pp. 371, 372.

the statute, and the sub-vendees were entitled to be registered: *Marshall v. Bown*, 7 M. & G. 188; 8 Scott, N. R. 889; 1 Lutw. 278; 14 L. J. C. P. 129; 9 Jur. 164; B. & Arn. 445.

*Conveyance not void under Splitting Act (7 & 8 Will. III. c. 25) unless vendor be a party to the object of the purchase. Knowledge of, and acquiescence in, such object on the part of vendor's solicitor, immaterial.*

**SOUTH LANCASHIRE.** Several persons (members of a political association) employed D. to procure for them qualifications to vote for South Lancashire.

D. accordingly purchased for them through the solicitor of W. some freehold property which W. had on sale.

The property was conveyed to the vendees (in fee) in different portions under nine separate deeds, duly executed before 31st January, 1845 (the year of the revision). The purchase-money for each portion was handed over to W.'s solicitor, at the time of the execution of the several conveyances, by D., who had previously received it from the vendees. The prices given were fair, and the purchasers had each received the rents of their respective portions.

It did not appear that the vendor knew of the vendee's object in making their respective purchases, though his solicitor knew it, and acquiesced therein.

Held, in accordance with *Marshall v. Bown*, *supra*, that the vendor not being privy to the object (a) of the purchase, the conveyances were not void under 7 & 8 Will. III. c. 25, s. 6, and that the vendees were entitled to be registered: *Hoyland v. Bremner*, 2 C. B. 84; 1 Lutw. 381; 15 L. J. C. P. 133; 10 Jur. 36; B. & Arn. 611.

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(a) The question of the illegality of such object, in the absence of fraud or collusion, was not before the court. See *Alexander v. Newman*, 2 C. B. 122 (the next case).

*A bonâ fide conveyance for valuable consideration to several persons is valid, although the object of vendor be to give, and that of vendees, to acquire, the right of voting.*

WEST RIDING OF YORKSHIRE. Thirty-five persons being desirous of having votes for the West Riding of Yorkshire, requested R., the agent of a political association, to obtain qualifications for them respectively. He accordingly, in January, 1845 (the year of the revision), purchased for them from Messrs. C., who were wealthy manufacturers in the neighbourhood of Huddersfield, some freehold land and cottages at a fair price, and the property was duly conveyed to the thirty-five purchasers as tenants in common.

Messrs. C.'s only object in selling this property was to increase the number of voters in the West Riding of Yorkshire.

R. was not the ordinary solicitor either of Messrs. C. or of any of the thirty-five persons for whom he made the above purchase; but as agent of the association he had, by advertisements, wherein he referred to himself as such agent, invited parties to sell and purchase small freeholds for the purpose of qualifying for votes for the said Riding.

On the day on which the conveyance was executed (22nd January, 1845), the thirty-five purchasers leased the land and cottages in question to Messrs. C. for fifteen years at a rent of £70, which had since been duly paid.

The property was near Messrs. C.'s mill, and before and at the time of the purchase, was, and had been ever since, occupied by persons employed in the mill.

The thirty-five purchasers had never seen the property.

The conveyance was complete and *bonâ fide*, and the purchase-money was really paid by the several purchasers.

There was no secret trust in favour of the sellers,

or stipulation as to how the purchasers, or any of them, should vote, nor had any of them any communication with Messrs. C. except through R., their common solicitor.

Messrs. C. and the purchasers held the same political opinions, and, though there was no concert between them, the avowed and only object of the transaction on both sides was "to multiply voices."

Held, that the conveyance, being *bonâ fide* for a valuable consideration, was not void under 7 & 8 Will. III. c. 25, s. 6, although the object of the parties thereto was "to multiply voices;" and that only such conveyances were void under the statute as were fraudulent, and not intended to convey any real interest in the land (*a*): *Alexander v. Newman*, 2 C. B. 122; 1 Lutw. 404; 15 L. J. C. P. 134; B. & Arn. 657; 10 Jur. 313.

*A bonâ fide conveyance by a father to his sons in consideration of natural love and affection is valid, although grantor's principal object be to entitle his sons to be registered.*

NORTH CHESHIRE. R. H. and S. H. claimed to vote in respect of freehold land.

H. (the father of the claimants) being seised in fee of land in North Cheshire, proposed to the claimants in December, 1844, to execute a deed of gift in their favour of so much of the property as would entitle them to be registered.

(*a*) The following cases were held to be within the principle laid down in *Alexander v. Newman*, and were decided accordingly:—

*Riley v. Crossley*, 2 C. B. 146; 1 Lutw. 420, *note*; 15 L. J. C. P. 144; B. & Arn. 682; 10 Jur. 316.

*Beswick v. Ashworth*, 2 C. B. 152; 1 Lutw. 422, *note*; 15 L. J. C. P. 145; B. & Arn. 686.

*Beswick v. Aked*, 2 C. B. 156; 1 Lutw. 422, *note*; 15 L. J. C. P. 145; B. & Arn. 687.

*Thorniley v. Aspland*, 2 C. B. 160; 1 Lutw. 423, *note*; 15 L. J. C. P. 145; B. & Arn. 688.

*Rawlins v. Bremner*, 2 C. B. 166; 1 Lutw. 425, *note*; 15 L. J. C. P. 145; B. & Arn. 692.



A deed was accordingly executed on 30th January, 1845 (the year of the revision), by which the said H., in consideration of natural love and affection, conveyed to the claimants and their assigns, for the life of the grantor, a portion of the land in question, of the yearly value of £36.

Before the execution of the conveyance, the claimants had, by permission of the grantor, depastured their horses on the land so conveyed, and had continued to do so subsequently to the date of the deed; and the grantor had also continued to depasture his cattle thereon since the date of the conveyance without paying, or having agreed to pay, his sons any rent.

The conveyance was made by the grantor *principally* for the purpose of entitling the claimants to be registered, but with a view also of making a provision for them.

Held, that the consideration of natural love and affection being equivalent to a pecuniary consideration, and there being no fraud in fact found by the revising barrister, the case was governed by *Alexander v. Newman*, 2 C. B. 122, *supra*, and the claimants were, consequently, entitled to be registered: *Newton v. Hargreaves*, 2 C. B. 163; 1 Lutw. 424, *note*; 15 L. J. C. P. 154; 10 Jur. 317; B. & Arn. 690.

*A bonâ fide grant by father to son in consideration of natural love and affection is valid, although grantor's object be to entitle son to be registered. Whether or not there be fraud in making the grant, is a question of fact for revising barrister, whose finding is conclusive thereon.*

NORTH CHESHIRE. J. W. claimed to vote in respect of a freehold rentcharge (a).

W. (the claimant's father) being seised in fee of a certain messuage in North Cheshire, granted thereout by deed of 30th January, 1845 (the year of the

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(a) See note (b), *ante*, on p. 7.

revision), to the claimant, his heirs and assigns, in consideration of natural love and affection, a yearly rentcharge (a), payable half-yearly.

The grantor was tenant of a farm belonging to the father of one of the members for North Cheshire, and a few days before the date of the deed the grantor was at the house of his landlord, with the land-steward of the latter, when instructions were given by the grantor to his landlord's attorney to prepare the deed. The attorney delivered the deed, when prepared, to the land-steward, who got it executed by the parties thereto, and attested it.

The first half-year's rent had been duly paid to the claimant.

The grantor's object in creating the rentcharge (a) was, as stated by him when giving instructions for the deed, to entitle the claimant to be placed on the register.

It did not appear that the claimant had engaged himself to vote in any particular way.

The revising barrister having decided that the transaction was not void on the ground of fraud, and that the deed was not void under 7 & 8 Will. III. c. 25, s. 6.

The court held (1) that the finding of the revising barrister on the question of fraud was conclusive, and could not be reviewed; and (2) in accordance with *Alexander v. Newman*, 2 C. B. 122, *ante*, pp. 371, 372, that the deed was not void under the statute: *Newton v. Mobberley* (b), 2 C. B. 203; 1 Lutw. 427; 10 Jur. 318; B. & Arn. 695.

(a) See note (b), *ante*, on p. 7.

(b) The facts of *Newton v. Crowley* (2 C. B. 207; 1 Lutw. 427; B. & Arn. 697) were substantially the same as those in *Newton v. Mobberley*, and the court gave judgment in accordance with their decision therein.

## PERSONAL DISQUALIFICATIONS.

*Letter-carrier, who resigned his appointment within twelve months of the 31st of July next preceding the revision, was held, under 22 Geo. III. c. 41 (repealed), not entitled to be registered.*

BOROUGH OF CAMBRIDGE. By 22 Geo. III. c. 41, s. 1 (repealed), persons employed in the collection of the post-office revenue, or any part thereof, were, both during the continuance of their employment in that capacity, and for twelve months after the determination thereof, disqualified from *voting*.

A., whose name appeared on the list of voters, was, in November, 1843, appointed by the post-master-general to carry letters, and to receive the postage due thereon.

He resigned his office in March, 1844 (the year of the revision). The revising barrister, on objection, retained A.'s name on the list.

Held, that his name should have been expunged: *Cooper v. Harris* (Austin's case), 8 Scott, N. R. 921; 7 M. & G. 97; 1 Lutw. 207; B. & Arn. 357; 14 L. J. C. P. 72.

*Collector of window duties appointed by commissioners of assessed taxes, who were also land tax commissioners, held to be within the exception created by section 2 of 22 Geo. III. c. 41 (repealed), and, therefore, entitled to vote.*

BOROUGH OF WESTBURY. The appellant was objected to at the revision of 1844 as being disqualified under section 1 of the now repealed statute 22 Geo. III. c. 41. He was a person employed in collecting the

duties on windows, and was appointed such collector by a warrant and appointment, under the hands and seals of two of the commissioners for executing the several acts of parliament relating to the duties of assessed taxes. It was admitted that the two commissioners making the said appointment were also commissioners of the land tax.

Among the persons enumerated in section 1 of 22 Geo. III. c. 41, as incapable of voting, are "any surveyor, collector, comptroller, inspector, officer, or other person employed in collecting, managing, or receiving the duties on windows or houses." Section 2 provides, "that nothing in this Act contained shall extend, or be construed to extend, to any commissioner of the land tax, or any person acting under the appointment of such commissioners of the land tax, for the purpose of assessing, levying, collecting, receiving, or managing the land tax, or any other rates or duties already granted or imposed, or which shall hereafter be granted or imposed, by authority of parliament."

Held, that the appellant was within the exception created by section 2, and was, therefore, not disqualified by section 1: *Dyer v. Gough*, 7 M. & G. 109; 8 Scott, N. R. 934; 1 Lutw. 220; 14 L. J. C. P. 81; 9 Jur. 308; B. & Arn. 368.

*Assessors, as well as collectors, of assessed taxes, appointed by commissioners of assessed taxes who were also land tax commissioners, held entitled to vote.*

WEST RIDING OF YORKS. Four persons were objected to at the revision of 1844 as being disqualified under section 1 of the now repealed statute, 22 Geo. III. c. 41. Two of them were collectors, and the other two assessors, of the assessed taxes.

The respective appointments of the four persons objected to were made by the local commissioners of assessed taxes, the names of two persons in every

township being annually returned to the said commissioners, who compelled the party so returned to take the office upon them. The local commissioners of assessed taxes were selected from the body of the land tax commissioners, and upon their appointment to act as assessed tax commissioners, they took an oath of office as assessed tax commissioners, and whilst acting as commissioners of assessed taxes they still retained their character of commissioners of the land tax.

Held, in accordance with *Dyer v. Gough, supra*, that the four persons objected to were within the exception created by section 2 of the statute, and were, therefore, not disqualified by section 1: *Baxter v. Doncaster*, 7 M. & G. 120, *note*; 8 Scott, N. R. 945; 1 Lutw. 227, *note*; B. & Arn. 379, *note*.

*A clerk to a receiving inspector of taxes appointed under 1 & 2 Will. IV. c. 18, s. 2 (repealed), held not disqualified by section 1 of 22 Geo. III. c. 41 (repealed).*

BOROUGH OF CAMBRIDGE. C. was objected to on the ground that he was a "person employed in collecting or receiving the duties on windows or houses," and, therefore, disqualified under the now repealed statute, 22 Geo. III. c. 41, s. 1.

By section 2 of 1 & 2 Will. IV. c. 18, it was enacted, that in lieu of the receivers-general to be discontinued under that Act, it should be lawful for the commissioners of His Majesty's treasury to appoint from time to time inspectors of taxes to be officers or persons for the receipt of the land tax, and of monies payable for the sale and redemption thereof, and the respective rates and duties of assessed taxes under the management of the commissioners of taxes, within such counties, districts, and circuits of receipt, as the said commissioners of the treasury should authorize or direct; and that it should be lawful for the last-named commissioners to grant annual allowances to such receiving inspec-



tors as a remuneration for executing the additional duties imposed on them by that Act, and for the expense of a clerk, not exceeding on an average £100 for such remuneration, and a like average sum for such clerk.

C. was clerk to a receiving inspector of taxes appointed under the above enactment. He was in the habit of assisting the receiving inspector in the receipt of the window duties and other taxes from the collectors. Before 5 & 6 Vict. c. 35 (Income Tax Act), he had taken no oath of office; but after the passing of that Act, he took the oath for collectors and officers for receipt given in schedule F. annexed to that Act. He had in no other way been recognized as a public officer; his salary was fixed and paid, and he was appointed, and was liable to be discharged, by the receiving inspector. Sometimes the receiving inspector received the allowance for a clerk without employing anyone at all in that capacity.

Held, that C. was not disqualified by section 1 of 22 Geo. III. c. 41: *Cooper v. Harris* (Clenishaw's case), 7 M. & G. 120, *note*; 8 Scott, N. R. 947; 1 Lutw. 228, *note*.

*Excusal by justices under section 11 of 54 Geo. III. c. 170, from paying poor rate, not a "receipt of parochial relief or other alms," within section 36 of 2 Will. IV. c. 45.*

BOROUGH OF LANCASTER. B., on the list of free-men, was objected to under the following circumstances:—

He was the occupier of a house within the borough, and was duly rated in respect thereof to a rate made in September, 1847. B. never paid this rate; and on 21st March, 1848 (the year of the revision), he was duly excused, under 54 Geo. III. c. 170, s. 11, from the payment thereof, on account of his poverty.

It was argued before the revising barrister that,

under the circumstances, B. was not entitled to be registered, because he had, within twelve months next previous to 31st July (a), 1848, received "parochial relief, or other alms," within section 36 of 2 Will. IV. c. 45.

The revising barrister having decided in favour of the vote,

The court affirmed the decision: *Mashiter v. Dunn*, 6 C. B. 30; 2 Lutw. 112; 18 L. J. C. P. 13; 13 Jur. 194; 12 L. T. 197.

*Serjeants-at-mace* (part of whose duty it was to act as constables) appointed by the corporation of a borough, subsequently to 5 & 6 Will. IV. c. 76, by virtue of a charter existing prior to that Act, held not disqualified by 19 & 20 Vict. c. 69, s. 9.

CITY AND BOROUGH OF HEREFORD. It is enacted by 19 & 20 Vict. c. 69, s. 9, that "No head or other constable already appointed or hereafter to be appointed for any borough, under the said Act" (the Municipal Corporation Act), "except special constables, shall, during the time he continues to be such constable, or within six calendar months after he has ceased to be such constable, be capable of giving his vote for the election of a member to serve in parliament for such borough."

The corporation of Hereford had, previously to the Municipal Corporation Act (5 & 6 Will. IV. c. 76), annually appointed in pursuance of their charter, four serjeants-at-mace, who, in addition to other duties, had to serve summonses, execute warrants, apprehend persons, and assist in keeping the peace.

After the passing of the last-named Act, the new corporation appointed the serjeants-at-mace (reduced from four to three) in the same manner as before, but on a different day from that named in the charter.

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(a) See now section 7 of the Parliamentary and Municipal Registration Act, 1878.

The serjeants-at-mace took the same oath as that taken by their predecessors in office before the Municipal Corporation Act, and performed the same duties as they did.

There was a police-force for the city and borough, appointed by the watch committee under section 76 of that Act.

Held, that, even if the serjeants-at-mace were constables at all, they were not constables within the meaning of 19 & 20 Vict. c. 69, s. 9, inasmuch as they were appointed by the corporation under the charter, and not under the Municipal Corporation Act, and, consequently, were not disqualified for the franchise (*a*): *De Boinville v. Arnold*, 1 C. B., N. S. 3; K. & G. 72; 26 L. J. C. P. 65; 3 Jur., N. S. 642; 5 W. R. 21; 28 L. T. 102.

#### *Parochial Relief.*

BOROUGH OF MALDON. A loan of money, for medical attendance, granted by the parish (under 4 & 5 Will. IV. c. 76, s. 58), within the qualifying year (but repaid within that period) was held by the revising barrister to constitute a receipt, by the grantee, of "parochial or other alms," so as to disqualify him under section 36 of the Reform Act, 1832.

[No one being instructed to support this appeal, it was struck out]: *Devenish v. Digby*, 13 C. B., N. S. 28.

*Parochial relief to father, not relief to son, so as to disqualify the latter for the borough franchise; at least in the absence of justice's order of maintenance.*

BOROUGH OF NORTHALLERTON. S. was objected to on the ground that he had been in receipt of parochial relief within the qualifying year.

In November, of the qualifying year, S.'s father, being destitute and unable to work, became an inmate

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(*a*) See now the Police Disabilities Removal Act, 1887.

of the district workhouse for six months. Whilst he was there, S. being threatened with a summons to go before the justices in petty sessions to show cause why he should not be ordered to maintain his father, offered to contribute 1s. 6d. a-week towards the maintenance of his father whilst he continued in the workhouse, and the guardians accepted the offer.

S. accordingly paid the sum of 1s. 6d. for several weeks, whilst his father was in the workhouse; but this sum was insufficient to defray the entire cost of his father's support, and the residue of the expense was paid out of the common fund of the Northallerton union.

No order was made by the justices requiring S. to contribute to the maintenance of his father.

Held, affirming the decision of the revising barrister, that S. was not disqualified by section 36 of 2 Will. IV. c. 45, as having received parochial relief (*a*): *Trotter v. Trevor*, 13 C. B., N. S. 48; K. & G. 531; 32 L. J. C. P. 59; 7 L. T., N. S. 678; 11 W. R. 92; 9 Jur., N. S. 443.

*Freemen of borough of Sandwich, who were also brethren of the hospitals of St. Bartholomew and St. John in that borough, not disqualified under section 36 of Reform Act, 1832, the benefits belonging to them as such brethren not being "alms" within that section.*

BOROUGH OF SANDWICH. Twelve persons were objected to on the list of freemen on the ground of their being disqualified by receipt of "alms" within 2 Will. IV. c. 45, s. 36.

These persons were brethren either of the hospital of St. Bartholomew or of that of St. John, and had

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(*a*) The following statutes were cited in the argument:—43 Eliz. c. 2, s. 7; 59 Geo. III. c. 12, s. 26, and 4 & 5 Will. IV. c. 76, s. 56; see 31 & 32 Vict. c. 122, s. 36; also per COCKBURN, C. J., and BLACKBURN, J., in *Reg. v. Ireland*, L. R. 3 Q. B. 132, 133.

been recipients of the gratuities and other benefits by law belonging to such brethren for more than twelve calendar months next previous to 31st July (*a*), 1863 (the year of the revision).

The two hospitals in question (identical in their constitution and management) were under the government of trustees, in whom was vested the right of appointing the brethren.

Each hospital was, by repute, a corporation by prescription, and the property of the same consisted in lands and houses; the income arising from the former being divisible annually among the brethren in equal shares, and a house being assigned to each brother to live in. Each brother was bound to keep in repair the house assigned to him.

There was no instance known of a brother once appointed having been turned out of either hospital.

With regard to the qualifications for admission as a brother, an old regulation was in force, in accordance with which "the brethren ought to be above the age of fifty years, except lame, blind, or impotent persons, and unfit for husbandry, and should be inhabitants of the said town, or a child of some then or late inhabitant, having no competent means to live."

The case found that the brethren had always voted at the borough parliamentary elections without objection (*b*).

Upon the above facts the barrister decided, that the freemen objected to were not disqualified by the receipt of "alms" within section 36 of 2 Will. IV. c. 45.

The court affirmed the decision, on the ground

(*a*) See now section 7 of the Parliamentary and Municipal Registration Act, 1878.

(*b*) The accuracy of this finding may be doubted, as the persons *objected to* as "almsmen" in 1690 (the Sandwich case, 10 Journ. 457; Heywood on County Elections, 2nd ed. 265), were probably members of these very foundations; indeed it was assumed in the above case that they were.



that, having a permanent right to the benefits they received as brethren, the voters were not placed thereby in a dependent or subservient condition: *Smith v. Hall*, H. & P. 11; 33 L. J. C. P. 59; 9 Jur., N. S. 1340; 12 W. R. 172; 9 L. T., N. S. 413; 15 C. B., N. S. 485.

*Not necessary that voter should have been of full age during the whole of the qualifying period.*

**BOROUGH OF KIDDERMINSTER.** The respondent claimed a vote as occupier, under section 27 of 2 Will. IV. c. 45.

He attained the age of twenty-one in March, 1864 (the year of the revision). It was objected, that he was not entitled to be registered, as he was not of full age during the whole of the qualifying year.

The barrister overruled the objection, and

The court held that he was right (a): *Powell v. Bradley*, 18 C. B., N. S. 65; H. & P. 159; 34 L. J. C. P. 67; 13 W. R. 272; 10 Jur., N. S. 1241; 11 L. T., N. S. 602.

*Women not entitled to borough franchise.*

**BOROUGH OF MANCHESTER.** A woman claimed a vote in respect of a house.

She was of full age, had occupied a dwelling-house for the twelve months next preceding 31st July (b), 1868 (the year of the revision), and had otherwise complied with the statutory requirements for the franchise as an inhabitant occupier.

The Representation of the People Act, 1867 (30 &

(a) It is sufficient if a voter has attained his majority by 31st of July next preceding the revision. See *Hargreaves v. Hopper*, L. R. 1 C. P. D. 195, *post*, p. 386. The law has not, it seems, been altered in this respect by the Parliamentary and Municipal Registration Act, 1878, for the provisions of section 7 of that statute have reference only to the *period of occupation*, &c., necessary for qualification, and not to the *date* by which a man must be qualified *in respect of status*.

(b) See now section 7 of the Parliamentary and Municipal Registration Act, 1878.

31 Vict. c. 102), enacts (section 3), that "every man shall in and after the year 1868, be entitled to be registered as a voter, and, when registered, to vote for a member or members to serve in parliament for a borough, who is qualified as follows: (that is to say) 1st, is of full age, and not subject to any legal incapacity, &c."

By Lord Brougham's Act (13 & 14 Vict. c. 21), it is enacted (section 4), that "in all Acts words importing the masculine gender shall be deemed and taken to include females, unless the contrary be expressly provided."

The Reform Act of 1832 (2 Will. IV. c. 45), gives (section 27 (a)) the occupation franchise in boroughs to "male persons" qualified as therein mentioned.

By the 56th section of the Representation of the People Act, 1867, it is provided that, "subject to the provisions of this Act, all laws, customs, and enactments now in force conferring any right to vote, or otherwise relating to the representation of the people in England and Wales, and the registration of persons entitled to vote, shall remain in full force, and shall apply, as nearly as circumstances admit, to any person hereby authorized to vote . . . and to the franchises hereby conferred, and to the registers of voters hereby required to be formed."

By the 59th section of the same Act it is enacted, that "this Act, so far as is consistent with the tenor thereof, shall be construed as one with the enactments now in force relating to the representation of the people, and with the Registration Acts."

Held, that women are subject "to a legal incapacity" to vote at parliamentary elections.

Held, further, that the interpretation of Lord Brougham's Act in regard to sex does not apply to the Representation of the People Act, 1867, and that the word "man" in the latter is to be understood in the same sense as the words "male person" in the Reform Act, 1832: *Chorlton v. Lings*, L. R. 4 C. P.

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(a) See note (b), *ante*, on p. 103.

374; 1 H. & C. 1; 38 L. J. C. P. 25; 17 W. R. 284; 19 L. T., N. S. 534.

*Women not entitled to county franchise.*

SOUTH-EAST LANCASHIRE. The respondent claimed a vote as a 40s. freeholder.

The respondent was a woman.

Held, that the case was concluded by *Chorlton v. Lings*, *supra*, the decision in which case covered the whole question of the capacity of women to vote at parliamentary elections, whether for borough or county: *Chorlton v. Kessler*, L. R. 4 C. P. 397; 1 H. & C. 42.

*Peers of parliament not entitled to be on the list of freehold voters.*

WEST WORCESTERSHIRE, MIDDLESEX, HERTFORDSHIRE, AND SOUTH ESSEX. The appellants claimed votes as freeholders.

It was proved that they were peers of parliament, and had taken their seats in the House of Lords.

The revising barrister for the several districts in which the votes were claimed decided that the claimants, being peers of parliament, were not entitled to be registered, and accordingly (in the first and second cases without objection) (a) expunged their names, and

The court affirmed the decisions: *Earl Beauchamp v. Madresfield*, *Marquis of Salisbury v. South Mims*, *the same v. Bontems*, *the same v. Bulwer*, L. R. 8 C. P. 245; 2 H. & C. 41; 42 L. J. C. P. 32; 21 W. R. 124; 27 L. T., N. S. 606.

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(a) The question whether the names could be lawfully struck out without objection was not reserved, but, on the point being submitted to the court, BRETT, J., observed, that "the revising barrister has to take notice of personal disabilities." L. R. 8 C. P. 250. See sect. 28 (sub-s. 7) of 41 & 42 Vict. c. 26, applied to counties by sect. 1 of 48 Vict. c. 15.

*Irish peers, who are not members of the House of Commons, not entitled to be registered.*

EAST SUFFOLK. The appellant was an Irish peer. He was not, nor ever had been, a representative peer, or a member of parliament.

The sole objection to him was, that he was an Irish peer.

Held, that the appellant, not having reduced his status of a peer to that of a commoner by becoming the representative of a constituency in Great Britain prior to 31st July next preceding the revision, was not entitled to be registered: *Lord Rendlesham v. Haward*, L. R. 9 C. P. 252; 2 H. & C. 175; 43 L. J. C. P. 33; 22 W. R. 157; S. C., nom. *Lord Rendlesham v. Tabor*, 29 L. T., N. S. 679.

*To entitle any one to be registered as a £12 occupier (a), he must have been of full age on 31st July next preceding the revision.*

NORTH-EAST LANCASHIRE. H. had occupied as tenant premises (rateable value, £12) during the whole of the qualifying year ending 31st July (b), 1875; but he was not on that day of full age, which, however, he attained before the revision.

Held, on the joint construction of section 6 (c) of the Representation of the People Act, 1867, and section 40 (d) of the Registration Act, 1843, that H. was not entitled to be registered: *Hargreaves v. Hopper*, L. R. 1 C. P. D. 195; 2 H. & C. 304; 45 L. J. C. P. D. 105; 24 W. R. 186; 33 L. T., N. S. 530.

(a) See note (a), *ante*, on p. 96.

(b) See now section 7 of the Parliamentary and Municipal Registration Act, 1878; see also note (a) to *Powell v. Bradley*, *ante*, on p. 383.

(c) Repealed by section 12 of 48 Vict. c. 3, and Second Schedule thereto, Part II., except as to rights of persons on the register at the date of the passing of that Act (6th December, 1884), in respect of the then existing £12 (rateable) occupation franchise, and except as to conditions made applicable by the said Act to any franchise enacted thereby.

(d) See note (b), *ante*, on p. 220.

*Acceptance of voluntary donation from trustees of a private charity, under circumstances showing poverty and a state of dependence in recipient, held to be a receipt of "alms" which disentitled him to be registered.*

BOROUGH OF PETERSFIELD. C. was objected to at the revision of 1876, on the ground that he had, within the qualifying year, received "alms," which by the law of parliament disqualified him from voting.

In 1864, lands were devised to trustees and their heirs, upon trust, to distribute a portion of the yearly rents and profits thereof "unto the poorest inhabitants" of the tything of W. as the trustees should think fit.

The portion so distributable generally amounted to £40 a year, and that sum was distributed annually by the trustees amongst about eighty of the labouring population of the tything, in sums varying from 2s. 6d. to 12s. 6d., according to the necessities of the recipient.

There was no personal application to the trustees, who decided for themselves who were fitting persons to receive a grant from the charity, and of what amount the grant should be.

Of the money distributed in 1876, C. received 12s. 6d. from the trustees. He was an agricultural labourer, married, and with five children; and he had from time to time applied for and received parochial relief, though not within the qualifying year.

He was found by the revising barrister to be a proper recipient of the charity.

Held, that the money received by C. under the trust was "alms" within section 36 of 2 Will. IV. c. 45, and therefore that he was not entitled to be registered: *Harrison v. Carter* (Cook's case) (a),

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(a) Another appeal (Port's case) was argued with the above, the only difference between the two cases consisting in the fact, that



L. R. 2 C. P. D. 26; 2 H. & C. 324; 46 L. J. C. P. D. 57; 25 W. R. 182; 35 L. T., N. S. 511.

*In order to disqualify under section 43 (repealed) of the Parliamentary Elections Act, 1868, it was necessary that the judge's report should find conclusively that bribery was committed by or with the knowledge and consent of candidate.*

WEST SUSSEX. The appellant, on the list of claimants in respect of freehold property, was objected to as being disqualified by virtue of 31 & 32 Vict. c. 125, s. 43 (a).

That section enacts that, "where it is found, by the report of the judge upon an election petition under the Act, that bribery has been committed *by or with the knowledge and consent of any candidate* at an election, such candidate shall be deemed to have been *personally guilty* of bribery at such election, and his election, if he has been elected, shall be void, and he shall be incapable of being elected to and of sitting in the House of Commons during the seven years next after the date of his being found guilty; *and he shall further be incapable during the said period of seven years—*

(1) *Of being registered as a voter and voting at any election in the United Kingdom, &c."*

The appellant, having been returned as duly elected on 31st of January, 1874, to serve in parliament for the borough of Kidderminster, a petition was presented against such election and return; and at the trial of the petition before MELLOR, J. (the election judge), such election and return were determined to be null and void.

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in Port's case the voter objected to, who was also an agricultural labourer, and a married man, having four children, had not actually received parochial relief; but on one occasion—viz., in 1873—he had applied for it, but it was refused by the board of guardians, who were of opinion that he did not need it.

(a) This section was repealed by the Corrupt and Illegal Practices Prevention Act, 1883.

The learned judge's certificate and report were dated 17th of July, 1874, and the material parts thereof, so far as the appellant's vote was concerned, were stated in the case, as follows:

"Now I, Sir JOHN MELLOR, Knight, one of the judges on the rota for the trial of election petitions in England, having, according to the Parliamentary Elections Act, 1868, tried the matters alleged in the said petition and determined the same, do hereby certify and report that at the trial of the matters alleged in the said petition, I determined that the said Albert Grant was not duly elected and returned at the said election, and that his election and return were and are wholly null and void. And in compliance with the directions of the Parliamentary Elections Act, 1868, I further certify and report that it was proved before me that the said Albert Grant was guilty of a corrupt practice at the said election within the true intent and meaning of the Corrupt Practices Prevention Act, 1854.

"And I further report that the nature of such corrupt practice was the promising before and at the time of the said election to certain voters for the said borough of Kidderminster and other inhabitants thereof that the said Albert Grant would (*a*), in the event of his being returned at the said election, and after such return, give to such voters and other voters and inhabitants of Kidderminster an entertainment consisting, among other things, of meat and drink, with the view and intent to induce such voters to vote for him the said Albert Grant at such election."

Held, that it was not "found by the report," either expressly or by necessary implication, "that bribery had been committed by or with the knowledge and consent" of the appellant; that the appellant could not, therefore, "be deemed to have been

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(*a*) See 2 H. & C. 368, *note*.

personally guilty of bribery," and, consequently, he was not disqualified by section 43 of 31 & 32 Vict. c. 125, for being registered as a voter: *Grant v. Pagham*, L. R. 3 C. P. D. 80; 2 H. & C. 358; 47 L. J. C. P. D. 59; 37 L. T., N. S. 404.

*Neither receipt of parochial relief or insufficient occupation constitutes the electoral incapacity referred to in section 28 (sub-section 7) of the Parliamentary and Municipal Registration Act, 1878.*

CITY AND BOROUGH OF BATH. Section 28 (sub-section 7) of the Parliamentary and Municipal Registration Act, 1878, enacts that the revising barrister "shall expunge the name of every person, whether objected to or not, where it is proved that such person was, on the last day of July then next preceding, *incapacitated by any law or statute* from voting at an election for the parliamentary borough, or an election for the municipal borough, as the case may be, to which the list relates."

Application was made to expunge the names of B. and others from the list of voters (list 1, division 1), on the ground that they had received parochial relief during the qualifying period (a).

Application was also made to expunge the names of C. and others from the list of voters (list 1, division 1), on the ground that they had not occupied the qualifying premises as owners or tenants during the qualifying year (a).

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(a) The qualifying period in relation to the non-receipt of parochial relief, and sufficiency of occupation is, by section 7 of the Parliamentary and Municipal Registration Act, 1878, to be computed by reference to *15th July*, but the persons whom the revising barrister is required by section 28 (sub-section 7), to expunge from the list are those who are incapacitated *on the last day of July*. This distinction in point of date (to which, in the absence of argument for the respondent, the attention of the court was not directed) is suggestive of another reason for upholding the barrister's ruling (in favour of the votes), in addition to that which formed the basis of the court's decision.

In no case had any notice of objection been served on the parties whose votes were impugned.

The facts of receipt of parochial relief and non-occupation were admitted.

The revising barrister being of opinion that section 28 (sub-section 7) did not apply to either of the cases, retained the names on the list of voters.

The court held, affirming the decision, that the sort of incapacity indicated by the section in question was a general (inherent) incapacity to vote at all, and not a mere casual incapacity arising from the receipt of parochial relief, or insufficiency of occupation: *Stowe v. Jolliffe* (a), L. R. 9 C. P. 734, followed; *Hayward v. Scott*, L. R. 5 C. P. D. 231; Colt. Reg. Cas. 76; 49 L. J. C. P. D. 167; 41 L. T., N. S. 476.

*Where money was paid by poor law guardians out of the parish funds to poor men for work they were employed by such guardians to do, the amount paid being measured not by the value of the work done, but by the needs of the persons employed, the receipt by such persons of the money so paid was held to be a receipt by them of parochial relief disqualifying them for the franchise.*

BOROUGH OF WHITEHAVEN. James Magarrill, a married man, with three children, applied to the relieving officer for Whitehaven for work. The relieving officer gave him, and directed him to take to

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(a) In *Stowe v. Jolliffe* the court held that the persons referred to in the proviso of section 7 of the Ballot Act, 1872, as being "prohibited from voting by any statute or by the common law of parliament," were "persons who from some inherent or for the time irremovable quality in themselves have not, either by prohibition of statute or at common law, the status of parliamentary electors, such as peers, women, persons holding certain offices or employments the subjects of statutory prohibitions, persons convicted of crimes which disqualify, or the like."

the task-master of the Whitehaven Union, a ticket, which was in the following form :—

“ Whitehaven Union. Number on relief list, 19, page on application book, 159. Eighth week of quarter ending Midsummer, 1885.

“ To Mr. Robert Wilson, task-master to the Whitehaven Guardians.

“ Please allow James Magarrill, aged 32, of 83, Newtown, to break four bushels of stones per day.”

The task-master accordingly set Magarrill to stone breaking. Magarrill, in the course of his employment, brought back the ticket at the end of each day, and received from the relieving officer 1s. 3*d.*, that sum being paid to Magarrill out of the funds forming part of the parochial funds for the relief of the poor. This employment continued for six weeks, during which time there was great distress in the district. The stones to be broken were collected by Magarrill, and others in the same position as himself, under the supervision of the task-master, and brought to a yard in Whitehaven hired by the guardians, and there broken. The guardians asked 5s. per ton for these broken stones, that sum not being more than enough to recoup them for money spent by them in connection with the breaking. The guardians were bound by a poor law order, which prohibits the allowance of relief to an able-bodied male pauper out of the workhouse, unless he be set to work and kept to work by the guardians as long as he should continue to receive relief. The Board of Guardians acted upon the principle that every payment made by them to paupers assumes the form of relief, not of wages, and consequently must be measured by the wants of the applicant, and not by the quantity of work done. In conformity with this principle, the able-bodied pauper who had more than two children received 3*d.* a day more than others for each child above that number. The revising barrister, on objection, expunged the name of James Magarrill, and



the names of fifty-three other persons (scheduled), from the list of voters on the ground of their having received parochial relief, and the court affirmed the decision: *Magarrill v. Whitehaven*, L. R. 16 Q. B. D. 242; 1 Colt. Reg. Cas. 448; 55 L. J. Q. B. D. 38; 34 W. R. 275; 53 L. T., N. S. 667.

*Police constables appointed under 10 Geo. IV. c. 44, being rendered by that statute incapable of giving their votes at any parliamentary election for a borough within the metropolitan police district, are persons who, in respect of any such borough, are "incapacitated by . . . statute from voting at an election" within section 28 (sub-s. 7) of the Parliamentary and Municipal Registration Act, 1878; and if they be proved to the revising barrister to have been so incapacitated on the last day of July next preceding the revision, he must expunge their names, whether objected to or not.*

BOROUGH OF ST. PANCRAS (SOUTH DIVISION). The name of the appellant appeared in the occupiers' list in respect of the occupation of a dwelling-house. He was on the last day of July next preceding the revision a member of the metropolitan police force, having been appointed thereto by virtue of 10 Geo. IV. c. 44, s. 18 of which statute enacts that "no . . . person belonging to the police force appointed by virtue of this Act shall during the time that he shall continue in any such office, or within six calendar months after he shall have quitted the same, be capable of giving his vote for the election of a member to serve in parliament for . . . any city or borough within the metropolitan police district . . . and if any such . . . person belonging to the police force shall offend therein, he shall forfeit the sum of one hundred pounds, to be recovered by any person who will sue for the same" as provided by the said section.

The borough of St. Pancras is within the metropolitan police district.

No objection had been made to the appellant's name being retained in the list on the ground of his being a metropolitan police constable, but the revising barrister, being of opinion that the appellant was "incapacitated . . . from voting" within section 28 (sub-s. 7) of 41 & 42 Vict. c. 26, expunged his name from the said list.

The court, affirming the decision, held that the appellant belonged to the class of persons described in *Stowe v. Jolliffe* (L. R. 9 C. P. on p. 750) as "persons who from some inherent or for the time irremovable quality in themselves have not, either by prohibition of statutes or at common law, the status of parliamentary electors," and that he, being in that condition in relation to the borough of St. Pancras on the last day of July next preceding the revision, was at that time "incapacitated from voting at an election" within section 28 (sub-s. 7) of 41 & 42 Vict. c. 26, and was therefore rightly expunged from the list (*a*), although not objected to: *Doulon v. Halse*, L. R. 18 Q. B. D. 421; 56 L. J. Q. B. D. 41; 1 Scott Fox's Reg. Cas. 1; 56 L. T., N. S. 340.

*The words "medical or surgical assistance" in sections 2 and 4 of the Medical Relief Disqualification Removal Act, 1885, include all parochial assistance, medical or surgical in its nature, although not rendered by a medical man.*

*Therefore, the assistance of an uncertificated midwife supplied to the wife of a claimant at the expense of the parish was held, under the circumstances of the case, not to disqualify the claimant for the franchise.*

OXFORDSHIRE (BANBURY DIVISION). The appellant claimed as an inhabitant householder. His claim was opposed on the ground of his having during the qualifying year received parochial relief.

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(*a*) The disability of members of the police force to vote at parliamentary elections is now removed by 50 Vict. sess. 2, c. 9. Their disability to vote as burgesses is still in force.

In November, 1885, the appellant's wife applied to the relieving officer for the Union, in which the appellant's parish was situate, that she might be attended during her then approaching confinement by a medical man. The application having been laid before the guardians, they passed a resolution permitting the relieving officer to give the woman an order for the medical man to attend her during her confinement.

At her confinement, which took place in January, 1886, she was attended, not by a medical man, but by an uncertificated midwife, who attended her at the instance of the relieving officer, and not at the request, or apparently with the knowledge, of the medical officer. On or about the 15th of January, 1886, the relieving officer, on the application of the said midwife, paid her the sum of 4s. in respect of such attendance. Neither the appellant nor his wife asked the relieving officer to pay the said midwife the sum of 4s., or any other sum. The usual practice in the relieving officer's district was for the guardians to pay the sum of 10s. 6d. to the medical man for attendance at a confinement under an order, and if a midwife attended in place of a medical man the relieving officer was authorized by the guardians to pay her the sum of 4s. for her attendance. The revising barrister being of opinion that the attendance of the midwife was not "medical or surgical assistance" within the Medical Relief Disqualification Removal Act, 1885, disallowed the claim.

The court held, reversing the decision, that the assistance rendered by the midwife to the wife of the appellant being such as is ordinarily rendered by a physician or surgeon was, under the circumstances of the case, "medical or surgical assistance" within the meaning of the Medical Relief Disqualification Removal Act, 1885, and did not therefore disqualify the appellant for the franchise: *Honeybone v. Hambridge*, L. R. 18 Q. B. D. 418; 56 L. J. Q. B. D. 46; 1 Scott Fox's Reg. Cas. 26; 35 W. R. 520.

## LISTS OF VOTERS.

*Signature of overseers not essential to validity of lists of voters.*

BOROUGH OF CARDIGAN. An objection was taken before the revising barrister to the list of voters for the town and liberty of Aberystwith, that it was not signed by a majority of the overseers.

The town and liberty of Aberystwith was a chapelry within the parish of Llanbadarn-fawr and formed a district of the borough of Aberystwith (one of the contributory boroughs of the borough of Cardigan), maintaining its own poor, and having two overseers, two churchwardens (*a*), and an assistant overseer (*b*).

The list in question was signed by the two overseers only.

Held, reversing the decision of the revising barrister, that that part of section 13 of 6 Vict. c. 18, which relates to the signing of the lists by the overseers was merely directory, and, consequently, that the list in question was valid: *Morgan v. Parry*, 17 C. B. 334; K. & G. 53; 25 L. J. C. P. 141; 26 L. T. 292; 2 Jur., N. S. 285.

(*a*) It was contended before the court, that the two churchwardens in question were not overseers within the meaning of 6 Vict. c. 18; but, as that fact was not disputed at the revision, the court held that it was not open to counsel to argue the point, and that the question was, whether, assuming the churchwardens were overseers, the words in section 13 "and the said overseers shall sign such lists" were compulsory.

(*b*) The assistant overseer was, in accordance with directions given him on his appointment, occupied only in the business of collecting the rates, and discharged no other duties of an overseer; quære, whether he was an overseer within 6 Vict. c. 18: see *Green v. Mephram*, 2 H. & C. 458, *ante*, pp. 293, 294.

*The court has no power to order corrections in register, except under section 67 of 6 Vict. c. 18; and that section only applies when there is an appeal from revising barrister.*

A., whose name appeared upon the list of voters for the county of Bedford, and also upon the list for the borough, was objected to before the revising barrister in respect of his county qualification only. The objection having been sustained, the barrister, intending to expunge the name from the county list, by mistake struck it off from that of the borough.

Counsel moved, on an affidavit of the above facts, for a rule, directing the returning officer of the borough of Bedford to restore A.'s name to the borough list, under 6 Vict. c. 18, s. 67.

The court held that, there being no appeal from the revising barrister, section 67 did not apply, and that they had no jurisdiction, independently of that section, to order the lists to be altered.

They accordingly refused the rule (a): *Re Allen*, 6 C. B., N. S. 334; K. & G. 258; 28 L. J. C. P. 256; 33 L. T. 122; 5 Jur., N. S. 1011; 7 W. R. 397.

*Register not complete until lists have been signed by clerk of the peace, and delivered by him to sheriff. Strict compliance by clerk of the peace with directions in section 47 of 6 Vict. c. 18, as to signing and delivering lists on or before 30th November, not a condition precedent to validity of register.*

**SOUTH LANCASHIRE.** A notice of objection having been produced before the revising barrister, it was contended that the person by whom it was signed

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(a) The vote of one whose name had been, as in the above case, expunged by mistake, was tendered, and held by Blackburn, J., to be a good vote: *Oldham*, 1 O'M. & H. 156.

However, the date of that case was prior to the Ballot Act, 1872, which (section 7) makes the register conclusive, except in cases of legal incapacity.



(the appellant) was not on the register of voters, and, consequently, not entitled to object. On referring to the bound copy of the then current register (produced from the custody of the sheriff), it appeared that the sheet numbered 313 had been pasted in the book after it had been bound, and that upon this sheet the appellant's name was inserted thus:—

|         |                       |  |                     |   |
|---------|-----------------------|--|---------------------|---|
| 5638 A. | Brumfitt,<br>William. | 21, Devon-<br>shire place,<br>Everton. | Freehold<br>houses. | Peers court,<br>Circus<br>street.<br>Mr. Rob-<br>erts and<br>others<br>tenants. |
|---------|-----------------------|--|---------------------|---|

The number prefixed to the preceding name was 5638, and to the succeeding one 5639.

With reference to the insertion of the appellant's name as above, the following facts appeared:

Being applied to in December, 1859 (the year preceding that of the revision) for copies of the new register, the deputy clerks of the peace, on or about the 29th of that month, sold them to the persons applying. These copies had the names of the deputy clerks of the peace printed on the last sheets thereof respectively. None of the copies had the name of the appellant on the 313th sheet.

At the time these copies were sold the deputy clerks of the peace had not signed and delivered the register to the sheriff, having been unavoidably prevented from doing so before 30th of November, the time fixed by statute. Having had their attention called to the omission of the appellant's name, the deputy clerks of the peace referred to the revise of the register of 1859, and found that the appellant's name was not initialed as intended to be expunged, but that the barrister having evidently run his pen through the name by mistake, had, by attempting to obliterate the mark, caused the appearance of an expunction, which had misled them. The deputy clerks of the peace thereupon interlined the appel-

lant's name in print on the 313th sheet, as above described, and forwarded copies of that sheet so corrected to the persons to whom they had sold the incorrect copies; and they substituted the sheet with such interlineation for the original sheet in the whole of the register, and in the bound copy of the register, which was by them signed and delivered to the under sheriff after such substitution.

Held, that the sale in December of the copies of the register from which the appellant's name had been omitted was not to be taken as the publication of the register; that the register became complete only when signed and delivered by the deputy clerks of the peace to the under sheriff, and that the appellant's name being contained therein at that time he was entitled to object.

Held, also, that section 47 of 6 Vict. c. 18, does not make the signing and delivery of the register to the sheriff on or before 30th November a condition precedent to its validity: *Brumfitt v. Bremner*, K. & G. 352; 30 L. J. C. P. 33; 7 Jur., N. S. 371; 3 L. T., N. S. 375; 9 C. B., N. S. 1.

*When two revising barristers are appointed for same district, one of them has no power, at least in the absence of objector, to restore name, which at a previous court has been duly expunged by his colleague.*

**SOUTH LANCASHIRE.** Two revising barristers had been appointed to revise the lists of the same division.

The name of a voter had been expunged by one of the revisors in consequence of its having been duly objected to, and of the absence of the voter, or any one on his behalf, when the name was called.

The court at which this took place was adjourned, and the adjourned court was held by the other revising barrister.

The voter whose name had been expunged on the

previous occasion appeared at the adjourned court, and claimed to have his name restored.

The second revising barrister, being satisfied that the voter's absence from the court held by his colleague was excusable, entertained the application (although it was objected that he had no power to do so), and having, upon investigation, satisfied himself that the voter was entitled to be on the register, re-inserted his name.

Held, that as it did not appear that the objector was present, and ready to be heard, on the second occasion, the barrister was not justified in restoring the name (a) : *Blain v. Pilkington*, 18 C. B., N. S. 6; H. & P. 92; 34 L. J. C. P. 55; 11 L. T., N. S. 452; 10 Jur., N. S. 1237; 13 W. R. 269.

*If name of £12 occupier (b) has been placed by mistake on wrong list, but with correct description of qualification in third column, revising barrister has power to amend, by transferring name to list of £12 occupiers.*

COUNTY OF SOUTHAMPTON. The appellant's name appeared on the register of voters headed "Voters in respect of property, including occupiers at a rent of £50 and upwards."

He was objected to in the third column, wherein the nature of his qualification was described thus, "occupier of house and land rated at £12 and upwards" (b).

It was admitted that the appellant was not qualified to be on this list, but he had the qualification set out in the third column.

There was a £12 occupiers' list, but it did not contain the name of the appellant, nor had he made a claim to be placed upon it.

(a) ERLE, C. J., in delivering his judgment, expressed grave doubts whether a revising barrister can, under any circumstances, lawfully re-open a matter which has been finally determined by his colleague.

(b) See note (a), *ante*, on p. 96.

It was contended at the revision court that, the appellant possessing a qualification which would entitle him to vote, it was a "mistake" his name appearing in the first-mentioned list, instead of in the list of £12 occupiers, and that the revising barrister was empowered by section 40 (a) of 6 Vict. c. 18, to correct such mistake by transferring the name from the list wherein it appeared to the £12 occupiers' list.

The revising barrister was of opinion that he had no power to do this, and accordingly expunged the name, and refused to insert it in the £12 occupiers' list.

The court held, reversing the decision, that the description of the appellant's qualification being correct, and, consequently, not calculated to mislead, the insertion of his name in the wrong place was a "mistake," within section 40 (a) of 6 Vict. c. 18, and one, therefore, which the revising barrister had power to amend, and ought to have amended, by transferring the name to the list of £12 occupiers: *Ballard v. Robins*, 2 H. & C. 384; L. R. 3 C. P. D. 92; 47 L. J. C. P. D. 50; 26 W. R. 80; 37 L. T., N. S. 436.

*Lists of county claimants in respect of occupation, and lists of new lodger claimants, not invalidated by reason of absence of overseer's signature, or by late publication.*

MIDDLESEX (HORNSEY DIVISION). The overseers of the parish of Hornsey duly received in 1885 certain lists of claims by occupiers and new lodgers, but they did not sign or publish any of them until two or three days after the 25th of August. It was contended at the Revision Court that the revising barrister had no power to accept, revise, or allow, the said lists or any of them, on the ground that they had not been signed or published by the overseers in

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(a) See note (l), ante, on p. 220.

accordance with paragraphs 43 and 45 of the precept in Schedule II., Part. II., of the Registration Act, 1885.

The revising barrister overruled the objection, and revised and allowed the said list.

Held, that the lists were not invalidated by the neglect of the overseers to sign them in due time; and that, regard being had to section 38 of the Registration Act, 1843, and section 18 of the Registration Act, 1885, the revising barrister acted rightly in revising and allowing the said lists; his decision was accordingly affirmed: *Wells v. Stanforth*, L. R. 16 Q. B. D. 244; 1 Colt. Reg. Cas. 451; 55 L. J. Q. B. D. 12; 54 L. T., N. S. 183.

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## BOUNDARIES.

*Orders of Local Government Board under the Divided Parishes and Poor Law Amendment Act, 1876, held not to have the effect of altering boundaries of boroughs in their relation to the Parliamentary franchise.*

**BOROUGH OF HORSHAM.** The appellants were objected to as not being entitled to have their names retained in the list of occupiers, on the ground that their qualifying properties were not situate within the parliamentary borough of Horsham. By the joint operation of the Reform Act, 1832, and the Boundary Act, 1832, the parliamentary borough of Horsham consists of the parish of Horsham.

The premises, in respect of the occupation of which the appellants claimed to have their names retained, were situated in what was, prior to and until the making of the order of the Local Government Board hereinafter mentioned, an isolated and detached part of the parish of Sullington, known as "Broadbridge Heath."

At the date of such order of the Local Government Board, Broadbridge Heath was within the parliamentary borough of New Shoreham, and not within the parliamentary borough of Horsham.

By section 1 of the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), the Local Government Board was empowered in cases where a parish is divided so as to have any of its parts isolated in some other parish or parishes, or otherwise detached, to make an order (after local inquiry and notice to clerks of the peace) either for constituting separate parishes out of the divided parish, or for amalgamating some of the parts

thereof with the parish or parishes in which the same may be locally included, or to which they may be annexed.

By section 3 the several parts of a parish to which the order applied were, from and after 25th March next ensuing the date of its taking effect, to be constituted as directed therein, and the officers of the several parishes affected thereby were required to act as if such parishes had been so constituted prior to the issue of the order.

Section 4 enacts that "*for the purposes of the election of members of Parliament and of burgesses in municipal boroughs, of the jury lists, of the action of the justices, and of the police and constables, the parishes shall continue to be deemed unaltered until new lists are made and new constables are appointed.*"

By an order of the Local Government Board (being the order hereinbefore referred to) made pursuant to the provisions of the above statute, it was ordered:—

"1. All those two isolated and detached parts of the said parish of Sullington, known as 'Broadbridge Heath' and 'Broadbridge,' which are locally included within or annexed to the said parish of Horsham, shall cease to be parts of the said parish of Sullington, and shall be amalgamated with the said parish of Horsham.

"2. This order shall take effect on the first day of November, 1878."

New lists of voters had been duly made, and new constables duly appointed for the parish of Horsham subsequently to 25th March, 1879. The revising barrister decided that the properties, in respect of which the appellants claimed to have their names retained on the list, were situate within the parliamentary borough of New Shoreham, and not within the parliamentary borough of Horsham, and that the appellants were not entitled to have their names retained in the Horsham list.

The court held, affirming the decision, that section 4 of the Divided Parishes and Poor Law Amendment Act, 1876 (whatever might be the precise meaning of that portion of the section which refers to election purposes) (*a*), did not affect the parliamentary franchise; that the boundary of the borough of Horsham was, for the purpose of electing members of Parliament, unaltered by the order of the Local Government Board, and consequently, that the premises occupied by the appellants, being respectively situate beyond such boundary, did not entitle them to be registered as voters for the borough: *Foster and others v. Medwin*, L. R. 5 C. P. D. 87; 1 Colt. Reg. Cas. 118; 49 L. J. C. P. D. 297; 42 L. T., N. S. 254.

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(*a*) Lord COLERIDGE, C. J., in delivering his judgment, said: "It seems to me that what was suggested in argument is at any rate a solution of it" (section 4 of the Divided Parishes and Poor Law Amendment Act, 1876), "viz., that in this case the portion of the parish of Sullington will be, for certain purposes, attached to the parish of Horsham; but that as there is no indication that this is to affect the parliamentary borough or the election of members of Parliament, except as to the preparation of lists, all that will follow will be this, that the names of voters, in respect of the parts of the old parish of Sullington which remain in the parliamentary borough of Shoreham, will have to be put into a list stuck upon churches in the parish of Horsham, and the voters will have to vote, as they have heretofore voted," for New Shoreham. The churchwardens and overseers of Horsham "will have to put upon the doors of the churches in Horsham lists of the persons who vote in that part of the new parish of Horsham which is comprised in the old borough of New Shoreham. That seems to me to give an adequate, or, at all events, one adequate interpretation to this section." L. R. 5 C. P. D. 93, 94.

*Where a voter had occupied a dwelling-house at Beckenham in the county of Kent from before the 15th of July, 1884, to May, 1885, and then moved direct to, and occupied for the remainder of the qualifying year, a dwelling-house at Lower Sydenham, situate in the same county, but which had by the Redistribution of Seats Act, 1885, become included in the Parliamentary Borough of Lewisham, it was held that he was entitled to be registered as a voter for the borough of Lewisham in 1885 by virtue of section 17 of the Redistribution of Seats Act of that year.*

**BOROUGH OF LEWISHAM.** The claim of one Frederick Grimwood to be inserted in the list of voters was as follows:—

|                         |   |                                   |   |
|-------------------------|---|-----------------------------------|---|
| Grimwood,<br>Frederick. | 28, Dillwyn<br>Road, Lower<br>Sydenham. | Dwelling-houses<br>in succession. | 29, Yewtree Road,<br>Beckenham, and<br>28, Dillwyn Road,<br>Lower Sydenham. |
|-------------------------|---|-----------------------------------|---|

The claim was opposed in the revising barrister's court by the respondent, when the following facts were established:—

The claimant had in fact occupied in immediate succession the two dwelling-houses mentioned in the fourth column as tenant thereof during the whole of the qualifying year. He had occupied 29, Yewtree road, Beckenham, from a period anterior to the 15th of July, 1884, down to the month of May, 1885, and he had occupied 28, Dillwyn road, Lower Sydenham, from the last mentioned date down to the revision of 1885.

Before the coming into operation of the Redistribution of Seats Act, 1885, each of the two dwelling-houses was situate in the then west division of the county of Kent, and each gave its inhabitant occupier a vote for the county.

Upon the coming into operation of the Redistribution of Seats Act, 1885, 29, Yewtree road, Beckenham, became included in the new western or Sevenoaks

division of the county of Kent, but did not become included in the area of any borough. Upon the coming into operation of the said Act, 28, Dillwyn road, Lower Sydenham, became included in the area of the then newly created parliamentary borough of Lewisham.

It was contended in support of the claim, that a person had a right to a vote for the borough of Lewisham, in respect of immediate succession from a dwelling-house which was formerly in the west division of the county of Kent (but is now, by virtue of the Redistribution of Seats Act, 1885, included in the Sevenoaks or west division of the said county) to a dwelling-house which was formerly in the said west division, and had, by virtue of the above mentioned Act, become included in the borough of Lewisham. The revising barrister decided against the said contention, and rejected the claim of the said Frederick Grimwood, and the claims of other persons similarly situated, whose appeals were consolidated herewith.

The court, reversing the decision, held, that the meaning of section 17 of the Redistribution of Seats Act, 1885, was that the law applicable to successive occupation which requires the subjects of occupation to be situated in the same area, should, for the purposes of the registration in 1885, be suspended in those cases where, but for the alteration of area, the circumstances were such that the vote would have been obtained: *Down v. Steele*, 1 Colt. Reg. Cas. 458.

*Orders of Local Government Board under the Divided Parishes and Poor Law Amendment Act, 1876, and the Poor Law Act, 1879, held not to have the effect of altering boundaries of counties in their relation to the parliamentary franchise (a).*

NORTH LEICESTERSHIRE. C.'s name was objected to in the list of voters for the parish or township of

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(a) See now sect. 18 of the Redistribution of Seats Act, 1885.



Seals, on the ground that his qualification was not situate within the said parish or township.

The entry was as follows:—

|                       |  |                 |  |          |  |              |
|-----------------------|--|-----------------|--|----------|--|--------------|
| Cave, Sir Mylles Cave |  | Stretton-en-le- |  | Freehold |  | Donisthorpe. |
| Browne, Bart.         |  | field.          |  | land.    |  |              |

On and up to 24th March, 1884, the property, in respect of which the voter claimed to be entitled to vote, was situate within an isolated or detached part of the parishes of Oakthorpe and Donisthorpe, and was for parliamentary purposes included in the register of voters for the said parish or township of Seals, but, on that date, by virtue of an order of the Local Government Board, pursuant to the Divided Parishes and Poor Law Amendment Act, 1876, and the Poor Law Act, 1879, this portion of the said parishes of Oakthorpe and Donisthorpe was detached from the said parish or township of Seals, and amalgamated with the parishes of Oakthorpe and Donisthorpe, which are situate within the limits of the southern division of the county of Derby.

The revising barrister considered that the case fell within the principle of the decision of the court in *Foster and others v. Medwin* (*ante*, on pp. 403—405), and he therefore refused to expunge the name of the voter from the register of voters for the said parish or township of Seals.

The court affirmed the decision.

*Jones v. Reeve.* (Not reported.)

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## PRACTICE.

*Due transmission of statement and notice to the masters, a condition precedent to the court's jurisdiction to entertain an appeal.*

An appellant had neglected to transmit to the masters within the first four days of Michaelmas term (*a*), the statement and notice, pursuant to 6 Vict. c. 18, ss. 62, 64.

On motion (unopposed) that the master be directed to receive the statement and notice, and enter the appeal,

Held, that the condition in section 64 of 6 Vict. c. 18, not having been complied with, the court had no jurisdiction to entertain the appeal, or allow it to be entered: *Autey v. Topham*, 5 M. & G. 1; 7 Scott, N. R. 402; 1 Lutw. 1; 13 L. J. C. P. 39; 7 Jur. 995; B. & Arn. 1.

*Due transmission of notice to the masters, a condition precedent to the court's jurisdiction to entertain an appeal.*

An appellant had duly transmitted the statement of the case to the masters, but had neither sent therewith, or within the first four days, of Michaelmas term, the notice required by 6 Vict. c. 18, ss. 62, 64.

The court (in accordance with *Autey v. Topham*, *supra*) refused to allow the appeal to be entered, on the ground that they had no jurisdiction to hear it: *Simpson v. Wilkinson*, 5 M. & G. 3, *note*; 7 Scott, N. R. 406; 1 Lutw. 5; 13 L. J. C. P. 39; 7 Jur. 995; B. & Arn. 3, *note*.

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(*a*) Although the Michaelmas Sittings (commencing on the 24th of October) have been substituted for the old Michaelmas Term (commencing on the 2nd of November), yet, for the purposes of Registration Appeals, the old Michaelmas Term remains in force.

*No formal order of the court required for correction of register under section 67 of 6 Vict. c. 18.*

The court having reversed the decision of a revising barrister, it became necessary to correct the register by inserting the appellant's name therein under 6 Vict. c. 18, s. 67. On an application being made for an order for that purpose,

Held, that no formal order was required: *Whitmore v. Bedford*, 5 M. & G. 9, 13, 14; 7 Scott, N. R. 494, 495; S. C., nom. *Peele v. Hinton*, B. & Arn. 14.

*In a registration appeal the appellant begins.*

On the hearing of an appeal from the decision of a revising barrister the appellant begins, because such appeal is not like a case from the sessions, but more in the nature of an appeal to the privy council, where the appellant always begins: *Webb v. Aston, near Birmingham*, 5 M. & G. 14; 1 Lutw. 6; 7 Scott, N. R. 435; 13 L. J. C. P. 57.

*Material omission in statement of case cannot be waived by consent.*

Where, in the statement of a case facts were omitted, which, in the opinion of the court, were material for the purpose of enabling it to give judgment, it would not allow such facts to be supplied by consent, but remitted the case to the revising barrister under section 65 of 6 Vict. c. 18 (a): *Webb v. Aston, near Birmingham*, 5 M. & G. 14; 7 Scott, N. R. 435; 13 L. J. C. P. 57.

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(a) In *Whithorn v. Thomas*, 7 M. & G. 3, 4, the court, adhering to the course adopted in the above case, refused to allow alterations to be made by consent, but directed that the original case should be handed to the revising barrister, who was in court, that he might at once make the proposed alterations. This was accordingly done.

*Where, on a case being called on, it appeared that respondent had delivered paper books (a) to the two junior puisne judges, but that none had been delivered to the Lord Chief Justice and senior puisne judge, the court ordered that the case should stand over.*

By 6 Vict. c. 18, s. 60, it is enacted that all appeals from revising barristers shall be "prosecuted according to the ordinary rules and practice of the court with respect to special cases (b), so far as the same may be applicable, &c."

On a case being called on for argument, it appeared that the respondent had delivered paper books (a) to the two junior puisne judges, but that none had been delivered to the Lord Chief Justice and the senior puisne judge.

The court said that the appellant ought to have delivered paper books (a) to the Lord Chief Justice and the senior puisne judge according to the rules of the court with respect to special cases, and that, if the respondent had supplied them, he might have taken advantage of the appellant's default, and prayed judgment (c) of the court, but that, under the cir-

(a) This term is now obsolete ; see next note.

(b) The practice in relation to the special case in a registration appeal is now governed by the Rules of the Supreme Court, 1883, Order XXXIV.

(c) Notwithstanding the intimation of the court (as reported in *Lutwyche*) that the respondent, if he had supplied the paper books, would have been entitled to judgment, it may be doubted whether, if he had actually supplied them, and the attention of the court had been directed to section 66 of 6 Vict. c. 18, they would have considered the rule as to praying judgment applicable to the case, for by the above-named section it is provided, that every judgment of the court "shall be binding upon every committee of the House of Commons appointed for the trial of any petition complaining of an undue election or return of any member or members to serve in parliament."

cumstances, the case must stand over (a); *Allan v. Waterhouse*, 7 Scott, N. R. 485; 1 Lutw. 93, *note*; S. C., *nom. Cooper v. Coates*, 5 M. & G. 98.

*No power to remit case for insertion therein of a fact deemed material by the parties, but which was omitted by revising barrister, as immaterial.*

A rule was moved for on the part of the appellant, calling on the respondent to show cause why the statement of facts should not be remitted to the revising barrister by whom it was prepared, in order that a certain fact might be inserted therein.

The affidavit in support of the application stated that the fact in question had been proved before the revising barrister, and that the appellant believed it to be material; but that the revising barrister had refused to insert it on the ground that it was, in his judgment, immaterial.

It was submitted that under section 65 of 6 Vict. c. 18, the court had power to remit the statement of facts in order that the case might be more fully stated.

Held, that the case, as it stood, being sufficient to enable the court to give judgment in law, and the revising barrister being required by the statute to state those facts only which are in *his* judgment material, the court had no power to remit the statement of facts.

(b) The rule was, therefore, refused: *Hinton v. Wenlock*, 7 M. & G. 166, *note*; 1 Lutw. 123; 14 L. J. C. P. 37; 8 Jur. 988; B. & Arn. 257; 2 D. & L. 598.

(a) In the subsequent case of *Sheddon v. Butt*, 11 C. B. 27, *post*, p. 432, the appeal was, under similar circumstances, ordered to be struck out.

(b) Per MAULE, J.—“Possibly the revising barrister might be liable to a mandamus.” 14 L. J. C. P. 37.



*Decisions of House of Commons, how far authorities.*

Decisions of House of Commons Committees may be used in argument for the reasoning which they contain, but they are not received by the court as binding authorities; per TINDAL, C. J., in *Whithorn v. Thomas*, 1 Lutw. 127, and per KEATING, J., in *Ford v. Harington*, 1 H. & C. 336. BRETT, J., observed in the last-mentioned case:—"Unless they" (the decisions in question) "are clearly wrong, I apprehend we should not overrule them."

*Only one counsel can be heard on each side.*

TINDAL, C. J.—"By the 60th section of 6 Vict. c. 18, these appeals are to be heard and determined according to the ordinary practice of the court with respect to special cases (a). We can, therefore, hear one counsel only on each side": *Gadsby v. Warburton*, 1 Lutw. 136; 7 M. & G. 11, 13, *note*; B. & Arn. 272, 274, *note*.

*If the statement of case be unsigned, and the court be not satisfied that revising barrister has finally approved of it, no jurisdiction to hear the appeal.*

A motion was made for leave to enter an appeal on an affidavit which disclosed the following facts:—

The revising barrister, whose decision was appealed from, having consented to grant a case, desired the parties to prepare a statement of facts for him to examine and settle. They accordingly the same day drew up a statement of facts, which they signed and handed to the revising barrister, who expressed his approval of the facts stated, and the points of law raised; but he returned the statement to the parties, with a recommendation to draw it up according to a form which he lent them for that purpose. The parties accordingly re-modelled the case in the form suggested, and sent it back to the revising barrister, with the declaration, required by the statute, duly subscribed by the appellant.

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(a) See note (a), *ante*, on p. 411.

Shortly afterwards the revising barrister died, and the case was found, after his death, among his papers, unsigned by him.

The court held, that in the absence of proof that the barrister *finally* approved of the statement, they had no jurisdiction to hear the appeal.

The motion to enter was, therefore, refused: *Nettleton v. Burrell*, 7 M. & G. 35; 8 Scott, N. R. 738; 1 Lutw. 157; 14 L. J. C. P. 37; 2 D. & L. 598; 8 Jur. 1033; B. & Arn. 297.

*The court can deal with those questions only, which have been raised before the revising barrister.*

The court refused to hear an argument in support of an objection to the sufficiency of the second column, on the ground that such objection had not been raised before the revising barrister: *Nunn v. Denton*, 7 M. & G. 66; 1 Lutw. 178; 8 Scott, N. R. 794; 14 L. J. C. P. 43 (a).

*Appellant not entitled to judgment without argument, by reason of respondent failing to appear.*

Where the appellant appeared, and the respondent, who, it was proved, had received due notice of the appellant's intention to prosecute the appeal, did not, the court refused to give judgment for the appellant, without an argument on his behalf (b):

(a) See as to points raised at the revision, but not expressly reserved, *Ashmore v. Lees*, 2 C. B. 31, 39, 40, and *West v. Robson*, 3 C. B. N. S. 422, 431, 434, *post*, pp. 432, 433; see also *Gregory v. Turner*, 1 H. & C. 43, *post*, p. 438.

(b) The rule above laid down was followed in *Colville v. Rochester*, 1 Lutw. 380, *note*, and *Fox v. Shaston St. Peter, Shaftesbury*, 2 Lutw. 97. It was apparently departed from in *Powell v. Caswell*, 8 C. B. 14, *post*, p. 429; but that case was probably deemed too clear for argument: see the facts (not reported) *ante*, pp. 274, 275, and per MAULE, J., 8 C. B. 15, *post*, *note* (a) on p. 429. The rule was again followed in *Pownall v. Hood*, 11 C. B. 1, *post*, pp. 430, 431, and may be considered as generally governing the practice of the court.

*Cooper v. Harris* (Austin's case), 8 Scott, N. R. 921; 7 M. & G. 97; 1 Lutw. 207; 14 L. J. C. P. 72; B. & Arn. 357.

*Case remitted on the ground that, instead of facts, it set forth the evidence given to prove them.*

A case which found that the claimant "stated" certain matters was remitted, under 6 Vict. c. 18, s. 65, on the ground that it set forth *evidence* (a) and not *facts*: *Pitts v. Smedley*, 7 M. & G. 85, note; 8 Scott, N. R. 907; B. & Arn. 344, note.

*Case struck out in default of appearance of either party not allowed to be restored on application (unopposed) of appellants.*

Upon a case being called on, no-one appeared on either side.

The court ordered it to be struck out.

Counsel for the appellant applied to have the case restored.

No one appeared for the respondents.

No sufficient reason being given for the non-appearance of the parties when the case was called on,

The court refused to grant the application: *Wansey v. The Overseers of St. Peter-le-Poor*, 7 M. & G. 162; B. & Arn. 420.

*Affirming barrister's decision without argument.*

Two cases were called on, in neither of which did the appellant appear.

(a) Subsequent cases, apparently open to the same objection as the above, have been allowed to be argued without being remitted: see *Burton v. Gery*, 5 C. B. 7; *Burton v. Brooks*, 11 C. B. 41, and *Bennett v. Atkins*, 2 H. & C. 430. It would seem that if the case is so stated as to enable the court to collect the facts, and to give judgment thereon, they will deem the statement sufficient, although wanting in absolute precision.

They involved the same point as *Wansey v. Perkins* (Hill's case), 8 Scott, N. R. 978, *ante*, p. 106.

The court, without argument, affirmed (a) the decisions with costs: *Bage v. Perkins*; *Crocker v. Lambeth*, 8 Scott, N. R. 983, 985; 7 M. & G. 156; 1 Lutw. 255; B. & Arn. 414.

*Paper books (b) not tendered four clear days before day appointed for argument, in accordance with practice in special cases, were permitted, under circumstances of excuse, to be delivered nunc pro tunc.*

Paper books (b) in an appeal (entered in time) were tendered to the judges' clerks on Monday, 10th November, but the clerks refused to receive them, as the first day appointed for hearing the appeals was Thursday, 13th November.

No notice had been given of the days on which the court would hear registration appeals until late in the afternoon of Friday, 7th November.

The counsel for the appellant applied to the court, on an affidavit stating the above facts, to allow the paper books (b) to be delivered *nunc pro tunc*, there not having been, as was submitted, sufficient time to prepare them for due delivery.

The court granted the application (c): *Croucher v. Browne*, 1 Lutw. 303; 9 Jur. 976.

(a) See *White v. Pring*, and note (b) to that case, *post*, pp. 429, 430.

(b) This term is now obsolete; see note (a), *ante*, on p. 411.

(c) The court also granted on the same day a similar application, made on behalf of the respondent in *Ashmore v. Lees*, for leave to deliver his paper books to the two junior puisne judges of the court. The respondent's counsel relied upon the same circumstances as those above stated in the principal case: 1 Lutw. 304, *note*. Instances of a similar indulgence will be found in *Allan v. Waterhouse*, *ante*, pp. 411, 412; *Elliott v. St. Mary's Within*, *post*, p. 420; *Pring v. Estcourt*, *post*, pp. 421, 422; *Nicks v. Field*, *post*, p. 423; *Palmer v. Allen*, *post*, pp. 425, 426, and *Benesh v. Booth*, *post*, p. 434. But see *Sheddon v. Butt*, *post*, p. 432.

*No power to remit a consolidated appeal, if, although the qualifications of each voter be not stated, enough be stated to enable the court to give judgment.*

The barrister decided, that the description of a voter's qualification was insufficient for identification, but finally amended it, and set out the original as well as the amended description, adding that the cases of ten other voters depended on the same point of law, and that they ought to be consolidated. A rule was moved for to show cause why the consolidated appeal should not be remitted under section 65 of 6 Vict. c. 18, on the ground that the revising barrister had neglected to state the qualifications of the ten other voters whose cases were consolidated with the principal case.

Held, that the barrister having found that the consolidated appeals depended on the same point of law as that raised in the principal case, and there being enough stated to enable the court to give judgment in law, they could not interfere, and they, therefore, refused the rule: *Hitchins v. Brown*, 1 Lutw. 328; B. & Arn. 547.

*If respondent appears, he cannot object to form of notice of appeal, or to sufficiency of service thereof.*

In this (a consolidated appeal) it was submitted by counsel on behalf of the respondents, that the notice of the appellant's intention to prosecute the appeal was informal, and the service of such notice insufficient, and consequently, that there was no proof that "due notice" had been given, as required by 6 Vict. c. 18.

Held, that the respondents had waived any informality in the notice, and any insufficiency in the service thereof, by appearance; for, the respondents having appeared, there was no necessity for proving the service of the notice under section 64 of the statute: *Rawlins v. West Derby*, 2 C. B. 72, 73; 1 Lutw. 373, 374; 15 L. J. C. P. 70; B. & Arn. 599.



*Where respondent did not appear, the court (having heard appellant) suspended judgment, for production of affidavit of service on respondent of notice required by the statute.*

After hearing counsel for the appellant, the court declined to pronounce any judgment, as there was no affidavit of service on the respondent (who did not appear) of the notice required by 6 Vict. c. 18, ss. 62, 64. On a subsequent day, the requisite affidavit being produced, the court reversed the revising barrister's decision: *Colvill v. Lewis*, 2 C. B. 60; 1 Lutw. 380, note; B. & Arn. 608.

*A waiver by respondent of the notice to him, required by sections 62 and 64 of 6 Vict. c. 18, does not give the court jurisdiction to hear appeal in his absence. Such waiver, a ground for postponement under proviso to section 64.*

Upon a case being called on, the respondent did not appear. There being no affidavit of the service of the notice upon him required by sections 62 and 64 of 6 Vict. c. 18, the court declined to hear the argument, but allowed the appeal to stand over for the production of the necessary affidavit.

On a subsequent day, the appellant's counsel produced an affidavit stating that the notice had been waived by agreement of the parties.

The court intimated, that they had no power to dispense with the notice; but, as the appellant had been "lulled into security" by the supposed waiver, they postponed the appeal under the proviso to section 64 of the statute: *Newton v. Mobberley*, 2 C. B. 203; 1 Lutw. 335; 15 L. J. C. P. 154; 9 Jur. 995.

*Consolidated appeal tendered in proper time, but rejected by master for want of barrister's signature to indorsement, allowed to be entered de bene esse on 5th day of term (a), on proof of diligence to obtain signature within first four days of term.*

The master having refused to enter a consolidated appeal (tendered within the first four days of Michaelmas term (a)) on the ground that the indorsement had not been signed by the revising barrister, an application was made on behalf of the appellant on the fifth day of term (a) for leave to enter; the affidavit on which the application was made, showed that the appellant's agent had used every exertion to remedy the defect when discovered, but without success, the barrister being absent from town.

It was, moreover, submitted in support of the application,

1. That section 42 of 6 Vict. c. 18, was directory only as to the signature of the indorsement (b), and

2. That the regulations as to indorsements enacted in that section did not apply to consolidated appeals (b).

The court, being satisfied that due diligence had been used to obtain the barrister's signature to the indorsement, and such signature having been now obtained, allowed the appeal to be entered, subject to any objection the respondent might urge, on argument, against the entry : *Pring v. Estcourt*, 4 C. B. 71; 1 Lutw. 505; 16 L. J. C. P. 10; 10 Jur. 928.

(a) See note (a), *ante*, on p. 409.

(b) But see *Wanklyn v. Woollett*, 4 C. B. 86, *post*, pp. 424, 425.

*Paper books (a) not tendered four clear days before day appointed for argument, in accordance with practice in special cases, were permitted to be delivered nunc pro tunc, there being circumstances excusing the delay, and also time for the perusal of the books before case would come on in its turn to be argued.*

An application was made on behalf of the appellant for leave to deliver the requisite paper books (a). Thursday, 12th November, was the first day appointed for hearing the appeals, but no notice thereof appeared until Saturday, 7th November. The appellant's attorney was, consequently, unable to deliver the paper books (a) before Monday, 9th November, when the judges' clerks refused to receive them, as there were not then four clear days before the day appointed for argument.

The appeal stood 20th on the list.

The court granted the application (b): *Elliott v. St. Mary Within*, 1 Lutw. 508; 8 L. T. 120.

(a) See note (b), *ante*, on p. 416.

(b) The court on the same day granted a similar application in *Busher v. Thompson*, 1 Lutw. 509, *note*. There the appellant's attorney had been under the impression that the paper books would be in time, if tendered four clear days before the actual day for hearing the argument, which was not likely to be Thursday the 12th, as the appeal stood ninth on the list. Ignorance of the practice of the court, although a ground for indulgence for a short time after the passing of the Registration Act, 1843, as shown by the above case, and by *Colvill v. Lewis*, 2 C. B. 61, would not now, it seems, be held to excuse non-delivery in due time of the special case: See per WILDE, C. J., in *Palmer v. Allen*, 5 C. B. 3. It should be mentioned, however, that in a subsequent case (*Benesh v. Booth*, 18 C. B., N. S. 111, *note, post*, p. 434), the court, in the exercise of their discretion, directed that the appeal should stand in the paper for hearing, although the respondent had not, when the case was called on, delivered his paper books. No reason was in that case assigned for the delay.

*Notice to master of appellant's intention to prosecute appeal, signed by appellant, must be tendered within the time prescribed by section 62 of 6 Vict. c. 18; otherwise the court cannot entertain the appeal.*

The notice to the master (delivered within the first four days of term (a)) of the appellant's intention to prosecute the appeal not having been signed by the appellant, as required by section 62 of 6 Vict. c. 18, the officer declined to receive it. It was thereupon sent back; and the appellant's signature thereto having been procured, it was again tendered to the officer on the fifth day of term, but rejected as being too late.

Under these circumstances, an application was made for leave to enter the appeal *nunc pro tunc*.

But the court refused to grant it (b); TINDAL, C. J., observing, "The only power we have to extend the time is, under section 64, and that applies to the notice to the respondent, and not to a case like this:" *Petherbridge v. Ash*, 4 C. B. 74; 1 Lutw. 507; 10 Jur. 950.

*Respondent's paper books (c) allowed to be supplied by appellant, although not tendered by him before day preceding first day appointed for hearing appeals.*

The respondent in an appeal (allowed by the court to be entered *de bene esse* on the fifth day of term, as stated *ante*, p. 419), having neglected to deliver paper books (c) to the two junior puisne judges, pursuant to the practice laid down in *Allan v. Waterhouse*, 7 Scott, N. R. 485, *ante*, pp. 411, 412, the appellant, who had delivered his own, prepared and tendered other two copies on 11th November, which was the day before the first day appointed for

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(a) See note (a), *ante*, on p. 409.

(b) See *Autey v. Topham*, 5 M. & G. 1, *ante*, p. 409.

(c) See note (b), *ante*, on p. 416.

hearing, but the judge's clerks refused to receive such copies without the direction of the court.

The appellant's counsel on the 12th applied for, and obtained, permission for the appellant to deliver the additional paper books (a) : *Pring v. Estcourt*, 4 C. B. 73.

*Ten clear days' notice to respondent under section 64 of 6 Vict. c. 18, a condition precedent to the court's jurisdiction to hear an appeal.*

The respondent in this case not appearing, counsel for the appellant prayed that the revising barrister's decision might be reversed, upon an affidavit of service on 2nd November, upon the respondent of the notice required by section 62 of 6 Vict. c. 18.

The date of the revising barrister's decision was 16th October, and the day appointed for the hearing of the registration appeals was 12th November.

The master directed the attention of the court to section 64 of the statute, which enacts that "no appeal shall be heard where the respondent shall not appear, unless the appellant shall prove that due notice of his intention to prosecute the appeal was given to the respondent *ten days at least* before the day appointed for the hearing."

The court held, that, as the notice had not been given ten days at least before the day appointed for hearing the appeal, *i. e.* ten days exclusive of the day of service and the day appointed for hearing (b), and as there was no proof of want of "reasonable time," within the proviso to the last-mentioned section, they had no jurisdiction to hear the appeal (c) : *Norton v.*

(a) See note (b), *ante*, on p. 416.

(b) See *Reg. v. The Justices of Salop*, 3 N. & P. 286.

(c) The decisions in the two following cases are to the same effect: *Adcy v. Hill*, 4 C. B. 38; 1 Lutw. 542, *note*; 10 Jur. 971; 16 L. J. C. P. 63; and *Clarke v. Beaton*, 5 C. B. 76. In the last-mentioned case it was contended that, ten clear days having elapsed between the service and the day on which the case was



*Salisbury*, 4 C. B. 32; 1 Lutw. 538; 16 L. J. C. P. 9; 10 Jur. 970.

*Where respondent had not delivered paper books (a) in due time, the court allowed him to deliver them nunc pro tunc.*

The first day appointed for hearing the appeals was Thursday, 12th November. The respondent not having delivered his paper books (a), application was made on his behalf on Monday, 16th November, for leave to deliver them *nunc pro tunc*.

The appellant had consented in writing to the above application.

On its being submitted to the court that the only result of their refusing to allow the respondent to deliver paper books (a), would be that the appellant would be at liberty to deliver them for him,

The court granted the application: *Nicks v. Field*, 1 Lutw. 509, *note*.

*There must be a reasonable promptitude in giving notice to respondent under section 64 of 6 Vict. c. 18.*

Upon a case being called on, it appeared that no notice had been served on the respondent, pursuant to section 62 of 6 Vict. c. 18.

Counsel for the appellant moved, that the hearing might be postponed, under the proviso in section 64 of the statute.

The decision of the revising barrister took place on 16th October.

The appellant's attorney became ill in the last week of that month, and died on 7th November.

The court held, that there had been sufficient time for giving the notice, and therefore refused to postpone the hearing.

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called on (the third day of hearing the appeals), the statute had been complied with; but it was held that the time must be computed by reference to the first day appointed for hearing.

(a) See note (b), *ante*, on p. 416.

The appeal was, consequently, struck out: *Pring v. Estcourt*, 4 C. B. 73; 1 Lutw. 543; 10 Jur. 971; 16 L. J. C. P. 63, 64.

*Respondent's application for leave to deliver paper books (a), and the fact of his having instructed counsel, do not dispense with the necessity of appellant proving service on respondent of notice required by section 62 of 6 Vict. c. 18.*

In this case the notice required by section 62 of 6 Vict. c. 18, had not been given.

The respondent declined to appear.

He had on a former day applied for, and obtained, leave to deliver his paper books (a) after the proper time.

It was submitted for the appellant, that this, and the fact of the respondent having instructed counsel, constituted such an appearance as to dispense with the notice.

The court held, that the application for leave to deliver the paper books (a) was not such an appearance as to dispense with the performance by the appellant of one of the conditions entitling him to be heard, and that they could not admit of constructive appearance: *Grover v. Bontems*, 4 C. B. 70; 1 Lutw. 544, *note*; 16 L. J. C. P. 63, 64; 10 Jur. 971.

*In the absence of revising barrister's signature to indorsement on tender of appeal for entry, master has no authority to enter the appeal, whether single or consolidated, nor the court jurisdiction to hear it.*

The master having refused to enter a consolidated appeal (tendered within the first four days of Michaelmas term (b)), on the ground that the indorsement had not been signed by the revising barrister, the appellant's counsel on the sixth day of term (b)

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(a) See note (b), *ante*, on p. 416.

(b) See note (a), *ante*, on p. 409.

(the defect having been supplied on the previous day), obtained leave to enter, subject as in *Pring v. Estcourt*, ante, p. 419.

The court subsequently held, after argument, that, the indorsement not having been signed before tender of the appeal for entry, the master had no authority to receive, nor the court jurisdiction to hear, the appeal.

Held also, that the regulations as to indorsements enacted in section 42 of 6 Vict. c. 18, are made applicable by section 45 to consolidated appeals: *Wanklyn v. Woollett* (a), 4 C. B. 86; 1 Lutw. 597; 16 L. J. C. P. 144.

*Court refused to permit paper books (b) to be delivered after proper time, without an affidavit assigning sufficient excuse for delay.*

No paper books (b) having been delivered four days before the day appointed for the hearing, in accordance with the practice of the court in special cases (c), the counsel for the appellant on the first

(a) Wanklyn and Woollett signed the declarations respectively simply as *agents*, neither of them appearing by any statement in the case, or schedule thereto, to be a person "interested" in the appeals, or any of them. The court doubted whether the Act had been complied with, but gave no opinion, merely adverting to the matter by way of caution. See *Jones v. Marshall*, 1 H. & C. 738, post, p. 440.

*Wanklyn v. Woollett* has been cited as an authority for the proposition, that the signed indorsement of the barrister *in open court* is a condition precedent to the court's jurisdiction to hear an appeal: see Davis on Registration and Elections (1869), 106. The decision, however, does not appear to go that length, although the court adverted to the obvious intention of the legislature, that the signature of the indorsement should precede the delivery of the statement of the case to the parties. The Court of Exchequer Chamber in Ireland refused (on objection by the respondent's counsel) to hear an appeal, where the indorsement (directed by section 58 of 13 & 14 Vict. c. 69) purported to have been signed a day later than the time limited for holding the registry: *Agnew v. Campbell*, 4 Ir. Jur., O. S. 120.

(b) See note (b) ante, on p. 416.

(c) 6 Vict. c. 18, s. 60, Reg. Gen. Hil. Term, 4 Will. IV. s. 7: see now Rules of the Supreme Court, 1883, Order XXXIV.

day appointed for hearing the appeals applied for leave to deliver the books, *nunc pro tunc*, but admitted he had no satisfactory reason to assign for the delay.

The court refused the application.

On a subsequent day (the appeal not having been reached) the application was renewed, and an affidavit produced, which stated that there had been a change in the appellant's agents about the time the paper books should have been delivered, and that some confusion had resulted therefrom.

The court held that a sufficient excuse had been shown, and allowed the paper books (*a*) to be delivered: *Palmer v. Allen*, 5 C. B. 1, 3; 2 Lutw. 1, 3; 17 L. J. C. P. 65, 66; 11 Jur. 977, and note.

*Where case was signed on 30th October, and the first day for hearing appeals was 11th November, service on respondent of notice required by section 62 of 6 Vict. c. 18, on 2nd November was held to fall within proviso of section 64.*

Upon a case being called on, the counsel for the respondent objected, that the appellant was not entitled to be heard, inasmuch as no due notice had been served on the respondent, pursuant to sections 62 and 64 of 6 Vict. c. 18. He produced an affidavit, which stated that the case was settled and signed by the barrister, and the notice of appeal at the foot thereof signed by the appellant, before 2 p.m. on 30th October; and that the respondent resided at Bewdley (the place where the revision court was held), and was present when the case was settled and signed; and that no notice was served upon him until 2nd November (*b*).

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(*a*) See note (*b*), *ante*, on p. 416.

(*b*) The first day appointed for hearing the appeals was 11th November.

A counter affidavit was produced, stating that the appellant's attorney, immediately on leaving the court on 30th October, prepared the notice, and sent his clerk to get it signed; but that, the appellant having left Bewdley, the clerk was unable to see him until 7 a.m. on 2nd November; and that the notice was served on the respondent by 8 a.m. on the last-mentioned day.

The court held, that the case was within the proviso to section 64 of 6 Vict. c. 18, and they postponed the hearing: *Palmer v. Allen*, 5 C. B. 5.

*The court has no jurisdiction to hear consolidated appeal, if the cases included therein do not depend upon same state of facts, and same decision in point of law; nor can such an appeal be remitted, under section 65 of 6 Vict. c. 18.*

This case was a consolidated appeal.

The facts of the several cases included in it were different, so that the decision on one would not govern the rest.

Held, that the appeal was improperly consolidated, and that the court had no jurisdiction to hear it; also that the case could not be remitted under section 65 of 6 Vict. c. 18, as the defect was not one which could be remedied by a fuller statement of facts: *Prior v. Waring*, 5 C. B. 56; 2 Lutw. 45; 10 L. T. 165; 11 Jur. 1086.

*If respondent does not appear, there must be an affidavit, either of service of the notice upon him required by sections 62 and 64 of 6 Vict. c. 18, or of circumstances of excuse within proviso to section 64. In the absence of such affidavit the court will dismiss appeal.*

Upon a case being called on, the respondent did not appear. There was no affidavit of service of the notice upon him required by sections 62 and 64 of 6 Vict. c. 18.



The appellant's counsel having stated that the appellant had been misled into the belief that the respondent would appear, the court allowed the case to stand over (without prejudice to the respondent's rights), for the production of an affidavit to show there had not been time to give the proper notice, and thus to bring the case within the proviso in section 64 of the statute.

On the next day for hearing the appeals, the counsel for the appellant produced an affidavit, which alleged that, when before the revising barrister the parties had agreed that they should be respectively appellant and respondent, and that all requests and notices necessary to be given should be considered as actually then given, and the case as actually then drawn and settled by the revising barrister in court, and that the revising barrister should draw up the case at his leisure, all formalities incidental thereto being considered as having been duly observed.

The affidavit further stated, that the statement of the case was not received by the appellant's solicitor until 30th October, and that a notice of the appellant's intention to prosecute the appeal was served on the respondent on 5th November (a).

Held, that in the absence of an affidavit either of due notice or of circumstances excusing the want of it (the arrangement set forth in the affidavit produced relating exclusively to the waiver (b) of formalities at the revision), the court had no alternative but to dismiss the appeal: *Aldworth v. Dore*, 5 C. B. 87; 2 Lutw. 67; 17 L. J. C. P. 142.

(a) The first day appointed for hearing the appeals was 11th November.

(b) MAULE, J., doubted (5 C. B. 90) whether, if the respondent had agreed to waive the notice required by section 62 to be served upon him, such waiver would have availed the appellant; see *Newton v. Mobberley*, 2 C. B. 203, *ante*, p. 418.

*Reversing barrister's decision without argument.*

Where the appellant appeared, and the respondent did not, the court, upon an affidavit that due notice of the appellant's intention to prosecute the appeal had been served on the respondent, reversed the revising barrister's decision without argument.

The counsel for the respondent applied on a later day that the case might be restored to the list on the grounds:

1. That no notice of the entry of the appeal had been given to the respondent;

2. That the appeal ought to have been argued, in accordance with the ruling of the court in *Cooper v. Harris* (Austin's case), 7 M. & G. 97 (*ante*, p. 414).

The court refused the application (*a*): *Powell v. Caswell*, 8 C. B. 14; 2 Lutw. 141.

*Affirming barrister's decision without argument.*

Upon a case being called on, the appellant did not appear. Counsel for the respondent thereupon prayed judgment, with costs, citing *Bage v. Perkins*, 1 Lutw. 255; 7 M. & G. 156; 8 Scott, N. R. 983; and *Crocker v. Lambeth*, 1 Lutw. 255, *note*; 7 M. & G. 156, *note*; 8 Scott, N. R. 985.

The court affirmed the decision with costs (*b*):

(*a*) "It must be assumed," observed MAULE, J., in the above case, "that the court read the case, and thought it clear that the decision of the revising barrister was wrong." 8 C. B. 15.

(*b*) From the above case and the cases cited therein has been deduced the proposition that, where the appellant does not appear, and the respondent does, the court will affirm the revising barrister's decision with costs, without argument. This proposition will be found stated in 8 C. B. 13 (*marginal note*), and 2 Lutw. 141 (*marginal note*). But the accuracy of the inference thus drawn from the conduct of the court in disposing of the above cases may well be doubted. The facts of *White v. Pring*, which are given *ante*, on pp. 116, 117, disclose, it is submitted, a case so free from doubt that the court may be reasonably presumed to have affirmed the decision with costs on that ground alone, independently of the fact that the appellant did not appear. As

*White v. Pring*, 2 Lutw. 141; 8 C. B. 13; 14 L. T. 156.

*Reversing barrister's decision without argument.*

Where both parties appeared, but the respondent's counsel admitted that he could not support the decision of the revising barrister,

The court reversed the decision without argument (a): *Jarvis v. Peele*, 11 C. B. 15; S. C., nom. *Jarvis v. The Town Clerk of Shrewsbury*, 2 Lutw. 182.

*Appellant not entitled to judgment without argument by reason of respondent failing to appear.*

Upon a case being called on, the respondent, who was proved to have received due notice of the appellant's intention to prosecute the appeal, did not appear.

The court at first doubted the necessity of the appellant's case being argued, in default of the respondent's appearance; but ultimately, on *Cooper*

to *Bage v. Perkins* (*ante*, pp. 415, 416) and *Crocker v. Lambeth* (*ibid.*), the facts of which will be found in 8 Scott, N. R. 983, 985, the point involved in those cases had been previously discussed (on the same day) in *Wansey v. Perkins* (Hill's case), 8 Scott, N. R. 978 (*ante*, p. 106), the decision in which case, both parties appearing, was affirmed with costs.

There is no adequate authority for the proposition above stated, and it seems more reasonable to conclude that the court, which must be assumed to read each case coming before it (see note (a) on the preceding page) will deal with the facts according to the law applicable thereto. This view derives additional force from the fact that the decisions of the court were, by virtue of section 66 of 6 Vict. c. 18, made binding on election committees, and also from the probability that they would now be held, under the last-mentioned section and section 26 of 31 & 32 Vict. c. 125, to bind courts for the trial of election petitions.

(a) The learned reporter in 2 Lutwyche's Registration Cases (pp. 182, 183), comments on the reversal, without argument, of the barrister's decision; but the relevancy of such comment seems questionable; see note (a) on the preceding page.

v. *Harris* (Austin's case), 7 M. & G. 97 (*ante*, p. 414), and other authorities, being cited, and the language of 6 Vict. c. 18, sections 64 and 66, referred to, it was ruled that the appellant must be heard; see note to *Cooper v. Harris* (Austin's case) (*ante*, p. 414): *Pownall v. Hood*, 11 C. B. 1; 2 Lutw. 170; 21 L. J. C. P. 12; 16 Jur. 618.

*An unsigned statement of case permitted, with respondent's consent, to be signed nunc pro tunc.*

The written statement of a case was indorsed with the revising barrister's signature, but not otherwise signed by him, as required by 6 Vict. c. 18, s. 42.

The counsel for the respondent consented that it should be signed *nunc pro tunc*.

The court thereupon allowed the appeal to be argued: *Burton v. Brooks*, 2 Lutw. 197; 11 C. B. 41; 21 L. J. C. P. 7; 16 Jur. 569.

*If statement of case be unsigned, the court has no jurisdiction to hear the appeal.*

The written statement of a case was indorsed with the revising barrister's signature, but not otherwise signed by him, as required by 6 Vict. c. 18, s. 42.

No one appearing on behalf of the respondent to consent to its being signed *nunc pro tunc*, as was done in *Burton v. Brooks*, *supra*,

The court ordered the case to be struck out, on the ground that they had no jurisdiction to hear it (*a*): *Burton v. Blake*, 11 C. B. 47; 2 Lutw. 197; S. C., nom. *Burton v. Cove*, 21 L. J. C. P. 7; 16 Jur. 569.

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(*a*) The court of Exchequer Chamber in Ireland dealt in a similar way with an appeal, where the statement, although signed by the barrister, was not signed by him until after the statutory time for holding the registry sessions had elapsed: *Agnew v. Fowler*, 1 Ir. C. L. R. 462.

*Where on a case being called on, it appeared that although appellant had delivered paper books (a) to the Lord Chief Justice and senior puisne judge, none had been delivered to the two junior puisne judges, the court ordered case to be struck out.*

Upon a case being called on, it appeared that the respondent had not delivered his paper books (a) to the two junior puisne judges.

Counsel for the appellant, who had duly delivered paper books (a) to the Lord Chief Justice and the senior puisne judge, prayed that the case might stand over, to give him time to supply the respondent's omission; but

The court ordered the appeal to be struck out: *Sheddon v. Butt*, 11 C. B. 27; 2 Lutw. 188.

*The court has no jurisdiction to hear consolidated appeal, if the cases included therein do not depend upon same state of facts, and same decision in point of law; nor can such an appeal be remitted, under section 65 of 6 Vict. c. 18.*

This was a consolidated appeal; but on its being found that the rights of the voters depended on totally separate and distinct states of facts,

The court held, in accordance with *Prior v. Waring*, 5 C. B. 56. (*ante*, p. 427), that they had no jurisdiction to hear the appeal: *Robson v. Brown*, 1 C. B., N. S. 34; K. & G. 67; 26 L. J. C. P. 81; 28 L. T. 103; 3 Jur., N. S. 674.

*Quære, whether respondent (objector) may rely on objections which were overruled, but against the decision on which there is no appeal.*

Before the revising barrister, five objections were taken to a party's right to vote: three of them he

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(a) See note (b) *ante*, on p. 416.



overruled; but the others he held to be valid, and rejected the vote.

The voter appealed against this decision.

The respondent sought to rely not only on the objections, the decision upon which had been appealed against, but also on those which had been overruled.

WILLIAMS and WILLES, JJ., inclined to think that the whole case was open to the court; and COCKBURN, C. J., said (3 C. B., N. S. 434), that the point raised was of sufficient importance to require consideration: however, it did not become necessary to determine it, as the judgment of the court was in favour of the respondent in respect of the objections which the revising barrister had held to be valid: *West v. Robson*, 3 C. B., N. S. 422, 431; K. & G. 141, 153.

*Where case was signed on 11th October, and first day for hearing appeals was 11th November, service on respondent of notice required by section 62 of 6 Vict. c. 18, on 6th November (the day on which case was (duly) lodged with the master), held not to fall within proviso to section 64.*

Three cases were dated and signed by the revising barrister on 11th October. They were lodged with the masters within the first four days of Michaelmas term, pursuant to section 62 of 6 Vict. c. 18, together with the notice to *them* of the appellant's intention to prosecute the appeals.

On the same day (6th November) the appellant gave a similar notice to each of the respondents; but the court having appointed 11th November as the first day for hearing registration appeals, the last-mentioned notice was not in compliance with section 64 of the statute, which requires a ten days' notice.

The court held, that they had no power to postpone the hearing under the proviso to section 64, as there had been ample time between the date of the

revising barrister's decision, and the day appointed for hearing the appeals, for service of the notice on the respondents: *Luckett v. Gilder*, *Luckett v. Voller*, *Luckett v. Gollop*, K. & G. 371; 31 L. J. C. P. 43; 8 Jur., N. S. 676; 11 C. B., N. S. 1; 5 L. T., N. S. 312; 10 W. R. 105.

*Where no paper books (a) had been delivered by either party, and appellant did not appear, the court, refusing to give judgment for respondent, ordered appeal to be struck out.*

In this case, the appellant not appearing, counsel for the respondent prayed the judgment of the court with costs, citing *Bage v. Perkins*, 1 Lutw. 255 (b). No paper books had been delivered by either party.

The court ordered the case to be struck out: *Jessop v. Ipswich*, H. & P. 23.

*Where, on a case being called on, respondent had not delivered his paper books (a), but was then prepared with his copies, the court directed the case to stand in the paper for hearing on following day.*

Upon a case being called on, it appeared that the appellant had delivered his paper books (a), but the respondent had delivered none. The respondent was, however, then prepared with his copies.

The court directed that the case should stand in the paper for the next day, being desirous not to prejudice a voter's right by striking out the appeal: *Benesh v. Booth*, 18 C. B., N. S. 111, note. (c)

(a) See note (b) *ante*, on p. 416.

(b) But see note (b) to *White v. Pring*, *ante*, pp. 429, 430.

(c) The learned reporter intimates that the appellant, if he had duly supplied the respondent's omission, would have been entitled to ask for judgment; but see note (c) to *Allan v. Waterhouse*, *ante*, p. 411.

*The court, without deciding whether strict compliance with sections 42, 43, and 44 of 6 Vict. c. 18, may be waived, declined, in the absence of clear proof of such waiver (a), to entertain a consolidated appeal, which was not signed by respondent, and which revising barrister had not signed until after 31st October (b).*

A rule had been obtained calling on the appellant to show cause why this appeal should not be struck out on the grounds—

That there was no notice in writing given by the appellant to the revising barrister in court; that the revising barrister did not state the case or his decision, or read the statement, or indorse or sign it in open court, as required by section 42 of 6 Vict. c. 18; that the requirements of section 44 were not complied with; and that no declarations were signed, and no respondent or appellant was appointed, as required by the last-mentioned section; and that the respondent had been improperly entered as such.

The affidavits on which the motion for the rule was granted showed:—

D. (the respondent) duly objected to the names of S. (the appellant) and six others being retained on the list of voters for the borough of New Windsor.

(a) It is remarkable that the case, as reported in the *Law Journal*, *Jurist*, *Weekly Reporter*, and *Law Times*, contains a statement to the effect that there was an understanding between the parties that objections in point of form should be waived. As to the existence of such an understanding, it will be observed that the affidavits on either side are conflicting.

(b) The question whether the statement of facts and the appeal may be lawfully signed by the barrister after the statutory period of revision has elapsed, came before the Court of Exchequer Chamber in Ireland in 1851, when the court held, on the construction of 13 & 14 Vict. c. 69, that they had no jurisdiction to hear such an appeal: *Agnew v. Fowler*, 1 Ir. C. L. R. 462. In that case there was no question as to consent. See also as to the barrister's signature to the indorsement, *Agnew v. Campbell*, 4 Ir. Jur. O. S. 120, referred to in the note to *Wanklyn v. Woollett*, ante, p. 425.

At an adjourned court held 28th October, 1864, the barrister decided against some of the objections, but held one to be fatal, and accordingly expunged the names of the persons objected to.

On a case being verbally applied for on behalf of the voters whose names were so struck out, the barrister said he would grant one if a question of law could be raised, and said that if a case was taken it must be submitted to one R. (a solicitor of Reading, who had appeared for the respondent) for revision, and that he should have an opportunity of raising the points that had been decided against him. Nothing more was done during the sitting of the court, or at the rising thereof, beyond a further verbal statement made on behalf of the persons so struck out, that they intended to take a case and prosecute the appeal.

On 4th November, L. (the agent of the persons so intending to appeal) brought the respondent a case which he said had been prepared and perused, but not finally settled, by the revising barrister, and requested the respondent to see R. at Reading, and obtain his approval thereof, saying that he must have it back in the evening of that day, by post time if possible.

The respondent at once proceeded to Reading, but found that R. would not be at home until the following day; and on his return to Windsor the respondent communicated to L. the result of his journey, and told him he could neither approve nor disapprove of the case, and that, as it was distinctly understood that R. was to have the case submitted to him for his approval on his (respondent's) behalf before it was signed by the revising barrister, he (respondent) could not take upon himself the responsibility of assenting to the case as drawn up, and declined to sign it.

On 5th November (the last day for lodging appeals), L. called on the respondent, and said he had got the revising barrister to sign the case, and

he handed to the respondent a document purporting to be a copy of the case as altered, settled, and signed by the revising barrister, and which L. said he had lodged.

No notice in writing of the desire of the persons struck out to appeal was given by themselves or on their behalf to the revising barrister in court on the day on which the decision was pronounced. The revising barrister did not state in writing the facts and his decision, and did not read the statement in open court, and did not then and there sign the same.

The appellant did not at the same time make a declaration in writing to the effect mentioned in section 42 of 6 Vict. c. 18; and the revising barrister did not then indorse any statement as required by the last-mentioned section, and did not then and there sign and date any such indorsement, and did not then and there deliver any such statement, with any such indorsement to the appellant, as directed by the statute; nor did he direct the cases of the other parties to be consolidated with this appeal.

There was no understanding between the parties whose names were struck out, or their agents, and the respondent, or his agent, that any of the formalities required by the statute should be dispensed with.

The affidavits in opposition to the rule stated in substance—

Both the respondent and R. stated in open court that they would waive all objections in point of form, and would appear to answer the appeal, and they did not insist on a strict compliance with the directions of the statute; and the respondent stated in open court that he would consent to appear as respondent to defend the appeals upon the case to be granted, and that the several appeals might be consolidated. Both the respondent and R. stated in open court that they would agree to any case which could be drawn up, so as to have the case fairly argued; and the case having been afterwards signed



by the barrister, and sent to the respondent, the latter declined to sign it.

In other respects the statements in the affidavits filed on behalf of the respondent were not controverted.

It was contended for the respondent that sections 42, 43, and 44 of 6 Vict. c. 18 were imperative, and their provisions such as could not be dispensed with, even by consent.

The court gave judgment in favour of making the rule absolute for striking out the appeal, on the ground that there had been "no completed appeal": *Scott v. Durant*, 18 C. B., N. S. 205; H. & P. 269; 34 L. J. C. P. 81; 11 Jur., N. S. 115; 13 W. R. 316; 11 L. T., N. S. 676.

*On a registration appeal the court gives judgment only upon points reserved.*

A woman claimed to be inserted in the list of parliamentary voters. The revising barrister expunged her name, although no objection had been made. On appeal it was contended that he had no power to do so (a).

The point did not appear in the statement of the case.

The court held, that their jurisdiction was confined to the points reserved, and accordingly dismissed the appeal: *Gregory v. Turner*, 1 H. & C. 43.

*Women, being legally incapacitated from voting, cannot appeal.*

M. W. (a woman) was on the list of voters for the borough of Salford.

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(a) Whatever doubt there may have been as to the revising barrister's power to expunge (without objection) a person's name, on the ground of legal incapacity to vote, he now clearly has such power by virtue of section 28 (sub-s. 7) of 41 & 42 Vict. c. 26, and section 1 of 48 Vict. c. 15.

The revising barrister expunged her name, although it was not objected to.

Held, that whether the revising barrister had or had not jurisdiction (*a*) to act as he did, M. W. had no *locus standi* as an appellant from his decision, because she was not a "person" within the meaning of 6 Vict. c. 18: *Wilson v. Salford*, L. R. 4 C. P. 398; 1 H. & C. 44; 38 L. J. C. P. 35; 17 W. R. 161; S. C., nom. *Moore v. The Town Clerk of Salford*, 19 L. T., N. S. 483.

*Appeals cannot be consolidated unless the parties respondent thereto have the same personal rights.*

The revising barrister had held certain notices of objection to £12 occupiers bad, for not stating any ground of objection, and he had accordingly retained the names of the persons objected to, some of whom were men and the rest women, on the list.

His decision being appealed from, he consolidated the appeals.

The court held that the appeal had been improperly consolidated, and, consequently, they had no jurisdiction to hear it (*b*): *Bennett v. Brumfitt* (Ashcroft's case), L. R. 4 C. P. 399; 1 H. & C. 48; 38 L. J. C. P. 72; 17 W. R. 142; 19 L. T., N. S. 452.

*Service on respondent of notice of intention to prosecute appeal, under sections 62 and 64 of 6 Vict. c. 18.*

A claimant, in favour of whose claim the revising barrister had decided, having declined to support the decision on appeal, the revising barrister named as respondents four persons who were represented to him as being the overseers of the parish, and whom

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(*a*) See note (*a*) on preceding page.

(*b*) On reference to the schedule annexed to the case it appears that, as a result of the decision, forty women, parties respondent to the consolidated appeal, were registered as voters in 1868.

he accordingly so described in the heading, and upon the indorsement, of the special case.

On 3rd November these four persons were served with notice of the intention to prosecute the appeal.

On 5th November it was ascertained that only one of them was in reality an overseer, the others having been previous overseers.

The revising barrister declining to amend the case, the real overseers were on 6th November (ten clear days before the day appointed for hearing the appeal) also served with notice. No respondent appearing.

The court held that the appellant had done all that was necessary to entitle him to be heard: *Brumfitt v. Roberts*, 1 H. & C. 387; L. R. 5 C. P. 224; 39 L. J. C. P. 95; 22 L. T., N. S. 301.

*Objector without a grievance cannot appeal.*

The revising barrister having decided that a notice of objection was bad, allowed the objector to appeal.

Proceeding, however, with the revision as if the notice were good, he struck off the name objected to, directing that it was to be restored if the court should hold that the notice was bad.

The objector having appealed, the court refused to hear the appeal on the ground that, the vote having been struck off, the objector was an appellant without a grievance, and therefore could not appeal: *Jones v. Marshall*, 1 H. & C. 738.

*The court cannot consider any circumstances to excuse the not giving the ten days' notice to respondent, required by section 64 of 6 Vict. c. 18, except absence of reasonable time.*

A revising barrister signed a consolidated appeal, and named the returning officer respondent therein on 31st October. The first day appointed for hearing registration appeals was 13th November, when the appeal in question was called on in its turn.

The appellant did not give notice to the respondent of his intention to prosecute the appeal until 4th November.

The respondent did not appear.

On the appellant urging matters in excuse of the delay,

Held, that the court could not, under the proviso to section 64 of the Registration Act, 1843, take into consideration any circumstances to excuse the not giving of the ten days' notice required by that section, except the absence of reasonable time for giving such notice; and that there was reasonable time for giving it in the present case, and, consequently, that the appeal could not proceed: *Brown v. Tamplin*, L. R. 8 C. P. 241; 2 H. & C. 17; 42 L. J. C. P. 37; 21 W. R. 125; 27 L. T., N. S. 610.

*Indorsement of case in consolidated appeal need not contain the names of all the appellant parties thereto.*

The names of fifteen appellants appeared (one in the statement of the case, and the rest in the annexed schedule), in a consolidated appeal, but the appellant named by the revising barrister, in pursuance of 6 Vict. c. 18, s. 44, to prosecute the appeal on behalf of himself and the other fourteen, was the only appellant whose name appeared in the indorsement of the case.

Held, a sufficient compliance with the requirements of 6 Vict. c. 18, in relation to consolidated appeals: *Sherwin v. Whyman*, L. R. 9 C. P. 243; 2 H. & C. 185; 43 L. J. C. P. 36; 22 W. R. 127.

*Affidavits by revising barrister in opposition to rule granted under section 37 of 41 & 42 Vict. c. 26.*

*Notice in writing of "desire to appeal" (6 Vict. c. 18, s. 42), condition precedent to case being stated.*

A rule having been granted under section 37 of 41 & 42 Vict. c. 26, calling upon a revising barrister and certain voters to show cause why an appeal

should not be entertained and a case stated, the affidavits produced in opposition to the rule included affidavits made by the revising barrister himself.

The Court (GROVE and LOPES, JJ.), in discharging the rule (which they did on the ground that it was not applied for in time), drew attention to the difficulties and inconvenience which might result from revising barristers making affidavits in the case of similar rules.

The court also expressed a strong extra-judicial opinion that the notice in writing of "desire to appeal," mentioned in section 42 of 6 Vict. c. 18, was a condition precedent to a case being stated by a revising barrister; and they added that it was important that this should be understood for future guidance, and with a view to diminish the number of cases (which they intimated might otherwise be numerous) coming before the court for decision, under section 37 of 41 & 42 Vict. c. 26, upon conflicting evidence: *In re Bane and others*, L. R. W. N. (1879), 200; 14 L. J. Notes of Cases, 165; *The Times*, Dec. 10th, 1879.

*Written statement of revising barrister, in lieu of affidavit, in showing cause against a rule obtained under section 37 of 41 & 42 Vict. c. 26.*

*Observations of the court in In re Bane and others qualified and explained.*

A rule having been obtained upon affidavit under section 37 of 41 & 42 Vict. c. 26, calling upon a revising barrister to show cause why he should not state a case for appeal from his decision, the revising barrister made a statement in writing, in which he set forth certain conclusions of fact and law embodied in his decision, and explained the reasons of his refusal to state a case for appeal.

In showing cause against the rule, counsel for the revising barrister, proposing to read such state-



ment (a), informed the court that the revising barrister had drawn it up in deference to the observations (b) of the court in *In re Bane and others* (ante, pp. 441, 442), respecting affidavits by revising barristers; GROVE, J., thereupon intimated that the observations of the court in that case were not to be understood as applying to *all* cases which might arise under section 37 of 41 & 42 Vict. c. 26, but as having reference to the circumstances of the case then before the court: *In re Sale* [not reported as to this point of practice].

*Where a case purporting by its indorsement to be a consolidated appeal was defective by reason of there being no statement that any person "interested" had consented to answer the appeal on behalf of himself and the persons named in the schedule: held, that such defect was fatal to the case as a consolidated appeal under section 44 of 6 Vict. c. 18, but did not affect its validity as a single appeal under section 42.*

A case stated for appeal purported by the indorsement thereon to be a consolidated appeal. Annexed to the case was a schedule containing the names of two persons whose right to the franchise depended on the same state of facts, and points of law, as those which were stated in the special case.

There was no statement that any person "interested" had *consented* to appear and answer the appeal on behalf of himself *and the persons named in the schedule*.

(a) Counsel for the applicant objected in the first instance to the reading of the revising barrister's statement, but subsequently withdrew his objection. The statement, however (not being in conflict with the affidavit upon which the rule had been obtained), was not actually read in court, or further alluded to.

(b) These observations are reported at length in "*The Times*," Dec. 10th, 1879.

The court held that, in the absence of any such statement, the appeal could not be entertained as a consolidated appeal under section 44 of 6 Vict. c. 18, but must be dealt with as a single appeal only under section 42: *Druitt v. Lane*, 1 Colt. Reg. Cas. 307.

*It is not necessary that a person, appearing at the revision court on behalf of a voter, should have been personally instructed by the voter for whom he appears.*

CITY OF EXETER. A friend of the respondent, who appeared for him at the revision court and proved the facts relating to the respondent's case refused to state, in answer to a question from the appellant, whether or not he had been requested by the respondent to appear on his behalf. The revising barrister declined to order him to answer such question, considering that as he had stated that he appeared on behalf of the respondent it was sufficient.

The court affirmed the decision: *Ford v. Smedon*, 2 Times Law Reports, 13.

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## COSTS OF APPEAL.

It is enacted by section 70 of 6 Vict. c. 18 "that it shall be lawful for the said court" (the Court of Appeal in Registration Cases) "to make such order respecting the payment of the costs of any appeal, or of any part of such costs, as to the said court shall seem meet: Provided always, that it shall not be lawful for the said court in any case to make any order for costs against or in favour of any respondent or person named as respondent as aforesaid, unless he shall appear before the said court in support of the decision of the revising barrister in question."

The thirty-eighth section of the Parliamentary and Municipal Registration Act, 1878, enacts as follows:—

"The costs of an appellant against a decision of a revising barrister may, if the appeal is successful, be ordered by the court hearing the appeal to be paid by the clerk of the peace or town clerk named as respondent in the said appeal, whether he shall or shall not appear before the said court in support of the decision.

"For enabling an appellant to obtain such an order he may at or before the time of making his declaration of appeal under section 42 of the Parliamentary Registration Act, 1843, require the revising barrister to name the clerk of the peace for the county or the town clerk for the parliamentary borough or municipal borough, as the case may be, to which the appeal relates to be respondent in the appeal.

"The revising barrister if so required shall, and

in any case may, name such clerk of the peace or town clerk, as the case may be, to be respondent in an appeal, either alone or in addition to any other person referred to in section 43 of the Parliamentary Registration Act, 1843.

“The expenses properly incurred by a clerk of the peace or town clerk as respondent, including any costs which he may be ordered to pay to the appellant in any such appeal, shall be allowed to him as part of the expenses incurred by him in respect of the revision of the list to which the appeal relates. The term ‘expenses’ in this section shall include all matters mentioned in section 31 of the Representation of the People Act, 1867.

“The costs of an appeal against a decision of a revising barrister shall be in the discretion of the court hearing the appeal, subject, except as aforesaid, to the proviso contained in section 70 of the Parliamentary Registration Act, 1843.”

The following cases may be consulted with reference to the practice of the court in relation to the allowance of costs:—

*Webb v. Aston*, 5 M. & G. 14, 32. Decision (in favour of the vote) affirmed, without costs.

*Simpson v. Wilkinson*, 7 M. & G. 50, 65. Decision (in favour of the vote) affirmed, without costs.

*Allen v. House (a)*, 7 M. & G. 157, 162. Decision (against the vote) affirmed, with costs.

*Bage v. Perkins (b)*, 8 Scott, N. R. 983, 984. Decision (against the vote) affirmed, with costs.

*Daniel v. Camplin*, 8 Scott, N. R. 999, 1013. Decision (in favour of the vote) affirmed, without costs.

*Wood v. Willesden*, 1 Lutw. 314, 323. Decision (in favour of the vote) affirmed, without costs.

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(a) In this case the appellant's counsel only was heard.

(b) In this case the appellant did not appear, and the respondent's counsel was not called upon.

- Walker v. Payne* (a), 1 Lutw. 324, 327. Decision (in favour of the vote) affirmed, without costs.
- Croucher v. Browne* (a), 2 C. B. 97, 111. Decision (in favour of the vote) affirmed, without costs.
- Bishop v. Smedley* (a), 2 C. B. 90, 96. Decision (against the vote) affirmed, with costs.
- Gale v. Chubb* (a), 4 C. B. 41. Decision (in favour of the vote) affirmed, with costs.
- Birch v. Edwards*, 5 C. B. 45, 51. Decision (in favour of the vote) affirmed, with costs.
- Watson v. Cotton* (a), 5 C. B. 51, 55. Decision (in favour of the vote) affirmed, with costs.
- Onions v. Bowdler*, 5 C. B. 65, 75. Decision (against the vote) affirmed, with costs.
- Watson v. Pitt*, 5 C. B. 77, 87. Decision (in favour of the vote) affirmed, with costs.
- Copland v. Bartlett*, 6 C. B. 18, 29. Decision (against the vote) affirmed, without costs.
- Mashiter v. Dunn*, 6 C. B. 30, 37. Decision (in favour of the vote) affirmed, with costs.
- Beamish v. Stoke*, 11 C. B. 29, 40. Decision (against the vote) affirmed, with costs.
- Ford v. Smedley*, 12 C. B. 622, 630. Decision (against the vote) affirmed, with costs.
- Hamilton v. Bass*, 12 C. B. 631, 638. Decision (against the vote) affirmed, with costs.
- Collins v. Thomas* (a), 12 C. B. 639, 641. Decision (in favour of the vote) affirmed, with costs.
- Lambert v. St. Thomas, New Sarum* (b), 2 Lutw. 222. Decision (against the vote) affirmed, with costs.
- Beeson v. Burton*, 12 C. B. 647, 660. Decision (in favour of the vote) affirmed, with costs.
- Moorhouse v. Gilbertson* (a), 14 C. B. 70, 76. Decision (against the vote) affirmed, with costs.

(a) In this case the appellant's counsel only was heard.

(b) In this case the respondent did not appear.



*Passingham v. Pitty (a)*, 17 C. B. 299, 314, 315.

Decision (in favour of the vote) affirmed, with costs.

*De Boinville v. Arnold*, 1 C. B., N. S. 3, 22.

Decision (in favour of the vote) affirmed, with costs.

*Clarke v. Bury St. Edmunds*, 1 C. B., N. S. 23, 33.

Decision (against the vote) affirmed, without costs.

*Hannaford v. Whiteway (a)*, 1 C. B., N. S. 53, 62.

Decision (against the vote) affirmed, with costs.

*Sherlock v. Steward*, 7 C. B., N. S. 21, 28. Deci-

sion (against the vote) affirmed, without costs (the case being a reasonably fit one for argument).

*Collier v. King*, 11 C. B., N. S. 14, 478. Decision

(against the vote) affirmed, without costs (the case being a reasonably fit one for argument).

*Powell v. Bradley*, 18 C. B., N. S. 65, 71. Deci-

sion (in favour of the vote) affirmed, with costs.

*Tepper v. Nicholls*, 18 C. B., N. S. 121, 141.

Decision (against the vote) affirmed, without costs.

*Flatcher v. Boodle*, 18 C. B., N. S. 152, 168.

Decision (in favour of the vote) affirmed, without costs.

*Ford v. Boon (a)*, L. R. 7 C. P. 150, 158. Deci-

sion (in favour of the vote) affirmed, without costs.

*Pickard v. Baylis*, L. R. 5 C. P. D. 235. Decision

(against the vote) affirmed, without costs (*b*).

(a) In this case the appellant's counsel only was heard.

(b) Per Lord COLERIDGE, C. J., "As counsel for the respondent has been instructed at the request of the court, we do not consider it a case in which the appellant should pay costs."

It was the rule that when the revising barrister's decision was reversed, no costs were given :

*Burton v. Aston*, 2 Lutw. 143, 158.

*Lee v. Hutchinson*, 2 Lutw. 159, 169.

*Barclay v. Parrott*, 1 C. B., N. S. 49, 52.

*Smith v. Huggett*, K. & G. 434, 437.

*Heelis v. Blain*, 18 C. B., N. S. 90, 110.

But the Legislature may have intended to modify the above-mentioned rule by the enactment of sect. 38 of the Parliamentary and Municipal Registration Act, 1878, quoted *ante*, on p. 445.

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In an appeal from a revising barrister, the point which was raised by the case depended on a question of fact which the barrister did not decide. The court refused to decide the question, and remitted the case, to be re-stated. The appellant then abandoned the appeal. The court held that the respondent was not entitled to costs: *Lawe v. Maillard*, L. R. 4 C. P. 547.

Where the respondent to an appeal intends to take a preliminary objection he should give notice to the appellant of his intention to do so. If no such notice is given, and the objection prevails, the appeal will be dismissed without costs: *In re Speight, Ex parte Brooks*, L. R. 13 Q. B. D. 42.



## INDEX.

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ABODE, objector's place of, must be sufficiently stated in notice of objection without reference to register, 237; objector's *actual* place of, must be stated in notice of objection, 243, 252, 279; voter's place of, must be stated in notice of objection as it is stated in list of voters *when transmitted* by clerk of the peace, 255; sufficiency of description of objector's place of, in notice of objection, 270; voter's place of, need not appear on the face of notice of objection, 278; sufficiency of description of objector's place of, a question of fact for barrister, 288; objector's place of, when, if omitted from notice of objection, may be supplied by revising barrister, 300; wholly untrue statement of voter's place of, amendable, 310.

ACTUAL POSSESSION, of rent-charge for six months necessary to satisfy section 26 of Reform Act, 1832...70.

ADDRESS OF LANDLORD omitted from new lodger claim, revising barrister has a discretion as to inserting, 231.

AFFIDAVITS. See *Revising Barrister*.

AFTER GRASS (rights of). See *Chipping Sodbury*.

AGENT, declarations in a consolidated appeal signed by, 151, 152, notes, 232, 233, note, 297, note, 304, note.

ALLOWANCE OR DEDUCTION from poor rate, 364, and note (*a*) on p. 365.

ALMS, what not a receipt of, 381—383; what a receipt of, 387.

ALMSMEN. See *Hospital*.

AMENDMENT. See *Abode, Claim, Description, Declaration, Dwelling-house, List, New Lodger, Occupation, Qualification, Revising Barrister*.

Of description of qualification in fourth column by striking out surplusage, 63; by substitution of right number of house for wrong one, when permissible, 318.

ANNUITY charged on lands in different occupations, apportionment of, 41; derived from land, but not charged thereon, insufficient to qualify, 44.

APPEAL. See *Practice*.

Declarations in a consolidated, signed by agent, see *Agent*; notice in writing of "desire to appeal" (*semble*) a condition precedent to a case being stated, 441; imperfectly consolidated, may be sufficient as a single appeal, 443.

APPORTIONMENT. See *Rent-charge*.

Of interest on mortgage upon several freeholds, 16; of rents and profits issuing out of land in more counties than one, 21; of annuity charged on land in different occupations, 41.

ARTICLED CLERK. See *Exeter, Residence (break of)*.

ASSESSED TAXES, 366.

ASSIGNEE has no vote in respect of equitable life interest in a term, 86.

ASSISTANT OVERSEER, 272, 293, 342.

BARRACKS. See *Officers, Soldiers*.

BARRISTER. See *Revising Barrister*.

BEADSMEN OF DAVENTRY, appointment as, not a "promotion to an office," 20.

BENEFICE, emoluments annexed to freehold, when do not qualify for vote, 46; when divisible so as to give vote for county and borough, 55.

BOROUGH, qualification for, not rendered available for county vote by the fact of revising barrister having dealt with it under 41 & 42 Vict. c. 26, s. 28, sub-sect. 14...68.

BOROUGH OF STAFFORD, allottee of corporation land of, under bye-law of 1836, has no freehold interest therein, 53.

BOTTESFORD HOSPITAL, inmates of, have no freehold interest in the hospital lands, 32.

BOUNDARIES, 403—408.

BOUNDARY ACTS, 114—116, note (b) on pp. 114, 115, and note (a) on pp. 115, 116; 169, 170, 350.

BREAK OF RESIDENCE. See *Residence, Cambridge University, Oxford University*.



**BRIBERY**, held not to disqualify for the franchise, unless found conclusively by judge's report to have been committed by or with knowledge and consent of candidate, 388.

**BUILDING**, cowhouse, when a, within section 27 of Reform Act, 1832...99; distinct portion of cotton factory, when a, within section 27 of Reform Act, 1832...101; coach-house and stable, when a, within section 27 of Reform Act, 1832...113; continuous buildings may constitute a, within section 27 of Reform Act, 1832, though without internal communication, or continuity of roof, 117; vote conferred by granary forming upper floor of, 151.

**BUILDING AND LAND**, need not be contiguous, in order to qualify under section 27 of Reform Act, 1832...118; when sufficient to qualify under section 27 of Reform Act, 1832...131, 132, 133, 134.

**BUILDING SOCIETY**, payments to, 10, 13, 30, 51.

**BURGAGE TENURE**, vote conferred by, 8, 9.

**BURLEIGH HOSPITAL**, beadsmen of, have a freehold interest in their rooms, 2, 34.

**CAMBRIDGE UNIVERSITY**, members of, held (before Registration Act, 1885) not entitled to vote for the borough in respect of their college rooms, 177; held, on the construction of section 15 of that Act, not entitled to vote for borough in respect of their college rooms, by reason of break of residence, 209.

**CESTUI QUE TRUST**, bare equitable right of, to possession of land, insufficient to qualify, 20; when may have a freehold interest in rent-charge notwithstanding absolute power of sale in trustee, 59.

**CESTUI QUE USE**, of rent-charge, when in actual possession thereof, 35, 58; of chattel rent-charge not entitled to vote in respect thereof, 90.

**CESTUIS QUE TRUSTEES** in receipt of rents and profits of land, devised on trust for sale for their benefit, have no freehold interest therein, if they are precluded from electing to keep the land unsold, 64.

**CHAMBERS IN THE TEMPLE**, exclusive occupation of a room in a set of, 137, and notes; occupier, as tenant, of a set of, not disqualified by sub-letting some of the rooms therein, 139.

CHANDOS CLAUSE, repealed, save in respect of rights existing on 6th December, 1884...93, note (a); qualification under, was not acquired by joining different rents payable to different landlords to make up £50 rental, 93; nor by joining rents of joint and single tenancies, 95; what was sufficient description of qualification under, 312, 314, 315.

CHANGE OF QUALIFICATION, in counties, required new claim, 93.

CHARITY, military knights of Windsor mere objects of, and not entitled to vote, 121; objects of, not necessarily incapacitated for voting, 137.

CHIPPING SODBURY, holder of an "acre" in, according to custom, entitled to vote, notwithstanding rights of after-grass and pasture granted to others, 44.

CLAIM, declaration annexed to *new* as well as old lodger's notice of, is *primâ facie* evidence of qualification, 180; notice of, when not invalidated by defective address, 218; insufficiency or absence of notice of, in what cases cured by publication, 221 and note (a), 223; what are "mistakes" in a, within section 28 (sub-section 2) of 41 & 42 Vict. c. 26...231; to be rated, 333 and note (a), 351 and note (b), 353 and note (b).

CLERGYMAN. See *Benefice, Perpetual Curate*.

COLLECTOR OF POOR RATE discharging the duties of overseer, 293.

COLLEGE. See *Cambridge University; Oxford University*.

Fellows of, entitled as such under a will to payment from realty profits do not acquire an "estate by devise," 21.

COLLEGE FELLOWSHIP, appointment to, not "promotion to an office," 21.

COMMITTEE OF LUNATIC'S ESTATE, occupation by, 94.

CONDITION PRECEDENT. See *Appeal, Notice in Writing, Writing*.

CONINGSBY. See *Lord Coningsby's Hospital*.

CONSOLIDATED APPEAL. See *Appeal*.

CONTROL of landlord over entire house prevents inmates of rooms therein from being inhabitant occupiers, as tenants, 152—157, and note (a) on pp. 154, 155.

CONVEYANCING AND LAW OF PROPERTY ACT, 1881, held not to apply to a conveyance by wife to husband of her separate real estate, 71—73, last paragraph of note (a).

CORPORATION AGGREGATE, members of, not entitled to county votes in respect of real property owned by, 24; members of, not entitled to borough votes in respect of rooms occupied by them as members of the corporation, 119.

CORRECTIONS IN REGISTER, 397.

COSTS OF APPEAL, 445—449.

COTTON FACTORY, distinct portions of, when each a “building” within section 27 of Reform Act, 1832...101.

COUNTING-HOUSE, tenant's interest in, not limited by landlord's clerk residing in house of which counting-house formed part, 112; a building without severance from rest of house of which it formed part, 142.

COWHOUSE, when a “building” within section 27 of Reform Act, 1832...99.

CREATING VOTES. See *Splitting Act*.

CURATE. See *Perpetual Curate*.

CUSTOMARY FREEHOLD, vote conferred by, 8, 9.

CUSTOMARY TENURE, vote conferred by, 82.

DATE of notices of objection, 257, 269.

DAVENTRY, appointment as beadsman of, not a “promotion to an office,” 20.

DECLARATION, annexed to lodger claim is *primâ facie* evidence of qualification in the case of *new* lodger as well as old, 180; under section 24 of 41 & 42 Vict. c. 26, must be sent to town clerk in due time, otherwise revising barrister has no power to act upon it, 305; under section 24 of 41 & 42 Vict. c. 26, essential for amendment, in list, of description of nature of qualification, 324.

DECLARATIONS in a consolidated appeal signed by agent, 151, 152, notes, 232, note (b), 297, note (a), 304, note (b).

DEDUCTION OR ALLOWANCE from poor rate, 364, 365, and note (a) on 365.

DEED by which wife's separate real estate is expressed to be conveyed by her to her husband, effect of, in equity, 72, note (a).

DESCRIPTION, of qualification in fourth column may be amended by striking out surplusage, 63; of occupier's qualification (in a borough) as "house," sufficient, although there be a list of freeholders as well as a list of occupiers, 230; of freehold premises situate in a "street, lane, or other like place," what sufficient, 307; of nature of occupier's qualifying property sufficient, without stating the extent of his interest, 308; of rent-charge, what sufficient, 319; of qualification as "house" may be altered to "dwelling-house" under section 28, sub-section 12, of 41 & 42 Vict. c. 26...320.

DEVISE, of land on trust for sale. See *Cestuis que trustent*, *College*.

DISQUALIFICATION by parochial relief or insufficient occupation, not an incapacity within section 28, sub-section 7, of 41 & 42 Vict. c. 26...390.

DISSENTING MINISTER, whether holds appointment for life, a question of fact for revising barrister on the evidence, 25; whether or not holds appointment for life, principle for determining, 26, note (a).

DIVIDED PARISHES AND POOR LAW AMENDMENT ACT, 1876, orders of Local Government Board made under. See *Boundaries*, *Franchise*.

DUPLICATE NOTICE, production of stamped, a sufficient substitute for proof of service, 217, 236, 242; production of stamped, duly signed by objector, sufficient evidence of original having been also signed by him, 244; may be produced by objector himself, although notice was posted by his clerk, 260; not the less a duplicate because it has the word "copy" at the head of it, 285.

DWELLING-HOUSE. See *Severance*, *House*.

Building calculated for, though not used as such, a "house" within section 27 of Reform Act, 1832...105; an inhabitant occupier of a, within 30 & 31 Vict. c. 102, and 41 & 42 Vict. c. 26, is necessarily rateable as an occupier under 43 Eliz. c. 2...152—157; description of

DWELLING-HOUSE—*continued*.

qualification as, may not, without a declaration, be altered to dwelling-houses in succession, 324, 325; amended description of qualification as, in substitution for "tenement and garden," 326, 328.

EARL LEICESTER'S HOSPITAL, brethren of, not entitled to borough votes in respect of their dwellings, 119.

EQUITY, cases in, relating to wife's *jus disponendi* over her separate real estate, 71, 72, note (a).

ESTATE, Equitable Freehold, when not possessed by *cestuis que trustent* in respect of land devised on trust for sale, but remaining unsold, 64.

EVIDENCE, declaration annexed to lodger claim is *primâ facie*, of qualification, in the case of *new* as well as old lodger, 180.

EXCUSAL. See *Poor Rate*.

EXETER, freeholder of the city of, does not "reside" in Exeter within section 31 of Reform Act, 1832, if, during part of statutory six months, he is serving articles to a solicitor in London, 174.

EXETER CATHEDRAL, residentiary canons of, entitled to city votes in respect of their dwellings, 140, 171.

EXPENSE voluntarily incurred by landlord, when not to be deducted in ascertaining net annual value of freehold, 52.

FACT. See *Questions of Fact*.

FARMING, a "business" within section 4 of the Companies Act, 1862...135.

FEE FARM RENT, description of, in list of voters, 313.

FELLOWS. See *College, College Fellowship*.

FINES AND RECOVERIES ACT, equitable doctrine as to power of married woman to convey separate real estate by deed not acknowledged under, 72, note (a).

FRANCHISE, Municipal, in respect of parts of houses occupied as dwellings, 162.



FRANCHISE, Parliamentary, may be established by tenant-occupier without proof of landlord's title, 150; under what circumstances conferred by a granary, 151; held (before Redistribution of Seats Act, 1885) not affected by orders of Local Government Board made under the Divided Parishes and Poor Law Amendment Act, 1876.. 403, 407.

FREEHOLD. See *Cestuis que trustent*.

FREEHOLD, Customary, vote conferred by, 8, 19; land in borough occupied with house in same borough, when gives vote for county, 11; what an estate of, 16.

FREEMEN, right of voting as, 170.

GAOL, confinement in, when a break of residence, 128.

GRANARY, held to be a "building" conferring the franchise within section 27 of the Reform Act, 1832...151.

GUARDIANS, Poor Law. See *Parochial Relief*.

HOSPITAL, inmates of, when may not vote as freeholders, 1, 5, 27, 32; bedesmen of, when may vote as freeholders, 2, 34; brethren of, when may not vote as £10 occupiers, 119.

HOUSE. See *Severance*.

Cannot give vote for both county and borough, 82; part of, used as a cowhouse and part as a dwelling for man, 103; exclusive occupation of part of, 104, 105, 106, 111, 127; calculated for a dwelling, though not used as such, within section 27 of Reform Act, 1832..105; part of, when occupied as a dwelling-house and when as lodgings, 154, 155, note (a); part of, may (*semble*), for the purposes of the dwelling-house franchise, consist of rooms on different floors, 159, note (a); where wholly let out in rooms to different tenants so as to constitute each tenant the occupier of a "dwelling-house" within the statutes, the mere fact of one of such tenants relinquishing his tenancy during qualifying year does not affect status of remaining tenants in relation to the franchise, 160; part of, separately occupied, gives municipal vote, although used for a dwelling only, 162; qualification described as, may be altered to "dwelling-house" under section 28, sub-section 12, of 41 & 42 Vict. c. 26..320.

HOUSES IN SUCCESSION. See *List, Occupation*.

INCAPACITY. See *Disqualification, Occupation, Purochial Relief*.

To acquire county franchise in respect of premises qualifying for a borough vote not affected by section 28, sub-section 14, of 41 & 42 Vict. c. 26..68.

INCORPOREAL TENEMENTS, section 18 of 2 Will. 4, c. 45, held to apply to, 73.

INCUMBENT, absence of, when (before 41 Vict. c. 3) a break of residence, 146—148.

INDEPENDENCE of landlord's control essential for the status of an inhabitant occupier, as tenant, 152—157, and note (a) on pp. 154, 155.

INDUSTRIAL TRAINER, of workhouse, when entitled to service franchise, 205.

INFANT. See *Voter*.

INHABITANCY, of dwelling-house. See *Residence (break of)*.

INHABITANT OCCUPIER. See *Control, Occupier*.

INSURANCE, payments on account of, not deducted in ascertaining clear yearly value under section 27 of Reform Act, 1832..109.

INTEREST. See *Building Society*.

On loan secured by mortgage of land, 12; on mortgage of several freeholds, apportionable, 16; freehold, acquired in respect of estate of uncertain tenure, 16; in land, not created by receipt of stipend paid from revenues derived from land, 29; in land devised on trust for sale, when not a freehold estate therein, 64.

IRISH PEERS, who are not members of the House of Commons, not entitled to be registered, 386.

JESUS HOSPITAL, ROTHWELL, inmates of, have no freehold interest therein, 1.

JOINT STOCK COMPANY. See *Shareholders*.

KING JAMES' HOSPITAL, GATESHEAD, younger brethren of, have no equitable interest in land or rent-charge by reason of the payments to which they are entitled, 56.

LAND. See *Interest*.

Owned and occupied with house in borough, under what circumstances held to entitle to county vote, 11; was not required to be contiguous to house, in order to give vote for borough under section 27 of Reform Act, 1832..118.

LANDLORD, title of, need not be proved by tenant-occupier, 150; the rating of, and repairing by, do not prevent separate occupier, as tenant, of part of house (wholly let out in similar tenancies) from being an inhabitant occupier of a dwelling-house within the statutes, 157; omission of address of, from new lodger claim, a mistake which revising barrister is not *bound* to correct, 231.

LEASEHOLD, equitable, *quære* if sufficient to qualify, 87, note (a), 90, note (a); sufficiently describes a lease for life, 315.

LEICESTER. See *Earl Leicester's Hospital*.

LESSEE, for lives, of part of waste of a manor, when has a freehold interest in land demised, 61; when interest of, divisible so as to entitle to vote for both county and borough, 86.

LIFE INTEREST, sufficiency of evidence to prove, a question of fact for revising barrister, 12, 25; equitable, in a term, does not give vote, 86; legal, in a term, *quære* if sufficient to qualify, 87, note (a).

LISKEARD, municipal borough of, properly described as a *parish*, 298.

LIST, what are not mistakes in a, within section 28, subsection 1, of 41 & 42 Vict. c. 26..231; parochial, to which objection refers, need not be specified in notice of objection to borough voter, 294; omission of "parliamentary" from description of list to which parliamentary objector belongs, an amendable mistake, 297; may not, in the absence of a declaration, be amended by substituting a successive for a single occupation, 324, 325.

LOAN. See *Building Society*.

Interest on, when a charge diminishing value of land, 12.

LOCAL GOVERNMENT BOARD. See *Boundaries, Franchise*.

LODGER. See *New Lodger*.

Not being rateable under 43 Eliz. c. 2, is not an inhabitant occupier of a dwelling-house within the statutes, notwithstanding that he occupies rooms in a house "separately as a dwelling," 152—156; may (*semble*) be converted into a tenant by act of landlord, 161, note (*a*); declaration of, annexed to claim is *primâ facie* evidence of qualification in the case of *new* lodger as well as old, 180; duty of revising barrister as to unopposed claim of, 181, note (*a*); notice of claim of, part of lodger's qualification to vote, and cannot be waived by overseers publishing name in list of lodgers, 182.

LORD CONINGSBY'S HOSPITAL, servitors of, have a freehold interest in their tenements, 137, 138.

MALMESBURY, right of voting by burgesses of, 168.

MANCHESTER CORN EXCHANGE, shareholders in, have no votes in respect of their shares, 31.

MARRIED WOMAN, power of, in equity, to devise and convey separate real estate to husband, 72, 73, note (*a*).

"MEDICAL OR SURGICAL ASSISTANCE," meaning of the words in sections 2 and 4 of the Medical Relief Disqualification Removal Act, 1885...394.

MIDWIFE. See "*Medical or Surgical Assistance*."

MILITARY SERVICE. See *Officers, Soldiers*.

MISDESCRIPTION. See *Declaration*.

MISTAKE, when omission of objector's place of abode from notice of objection is a, within section 28, sub-section 2, of 41 & 42 Vict. c. 26...300.

MISTAKES. See *List, New Lodger, Omission*.

What are, in a "claim," 231; what are not, in a "list," 231.

MUNICIPAL. See *Franchise*.

NAME. See *Signature*.

Objector's, misspelt in list, when need not be adopted by objector in notice of objection, 262.

NEW LODGER, amendment of mistakes in claim of, discretionary, 231.

NOTICE IN WRITING of "desire to appeal" (*semble*) a condition precedent to a case being stated, 441, 442.

OBJECTION, to freeholder (already on register) cannot be entertained unless stated in notice of objection, 63; notice of, when sufficiently states objector's place of abode, 234; notice of, must of itself give sufficient information of objector's place of abode, without reference to register, 237; notice of, to overseers may be sent by post, otherwise than in accordance with the statutory mode, 245; separate notice of, need not be given to overseers in respect of each voter objected to, 247; notice of, need not be dated the day on which signed, 247; notice of (in counties), when essential to empower barrister to expunge name, 248; notice of, to overseers in counties need not specify list on which voter's name appears, 249; notice of, to £12 occupier held bad for not specifying ground or grounds of objection, 249; notice of, when may be shown by evidence to give requisite information of objector's place of abode, 250; original notice of, if produced by voter, available to objector in proof of service, in default of his production of a proper duplicate, 251; under a notice of, to third column in freeholders' list in counties, objector may prove property to be such as to give borough vote, 254; notice of, must be dated with the year of our Lord, 257, 269; notice of, when invalid, although in strict compliance with statutory form, 259, 289; notice of, must be signed by objector himself, 261; notice of, to borough voter and to overseers in the City of London, not required (before 41 & 42 Vict. c. 26) to specify list to which objection referred, 263, and note (a); notice of, when not vitiated by insertion of superfluous words, 264; notice of, by freeman, insufficient for not specifying list in which his name appeared, 268; service of notice of, on parish officer who had not signed list, a good service, 269; service of notice of, at voter's qualifying premises (not his abode) insufficient, 269; service of notice of, at voter's abode, when insufficient, 271; service of notice of, at overseer's abode, when sufficient, notwithstanding lateness of hour, 272; notice of, sent by post (in the statutory mode) not vitiated by the fact of postmaster having received it out of appointed hours, 276; notice of, to voter, sent by post (in the statutory mode) need not show voter's abode on the face of it, 278; notice of, when insufficient for not stating list wherein objector's name was to be found, 282; notice of, sent by post (in the statutory mode) not vitiated by addition of post town, and county to voter's place of abode "as described in list," 285; withdrawal of, 287, and note (a); notice of, sufficient without specifying in terms the list on



**OBJECTION**—*continued*.

which objector's name is to be found, if description be such as to be "commonly understood" to refer to that list, 292; notice of (to borough voter), need not specify the particular parochial list to which objection refers, 294; need not specify the particular qualification list to which objector belongs, 297; not invalidated by omission of "parliamentary" from description of list to which parliamentary objector belongs, 297; notice of, when amendable by supplying omitted place of abode of objector, 300; notice of, where more than one franchise list, 301; in the absence of, revising barrister may not expunge voters on the ground of their receipt of parochial relief, or of their insufficient occupation, 390.

**OCCUPATION**, single may be substituted for successive, 323; successive may not be substituted for single, without a declaration as to misdescription, 324; insufficient, not an incapacity within section 28, sub-section 7, of 41 & 42 Vict. c. 26.. 390.

**OCCUPIER**. See *Dwelling-house*, *House*.

As tenant, of dwelling-house does not occupy the same the less exclusively, as such, by reason of his taking in a lodger with whom he shares one of the rooms, 139; as tenant, need not prove landlord's title, 150; of rooms in a house separately as a dwelling is, if rateable, an inhabitant occupier of a dwelling-house—if not rateable, a lodger, 152—157, and note (a) on pp. 154, 155.

**OFFICE**. See *Beadsmen of Daventry*, *College Fellowship*, *Parish Clerk*.

**OFFICER**, public, when does not occupy as owner or tenant, 102.

**OFFICERS**, commissioned and non-commissioned, in the army, entitled to service franchise in respect of their rooms in barracks, 184—203.

**OLDHAM PARISH CHURCH**, proprietors of pews in, not entitled to vote in respect thereof, 42.

**OMISSION** of the word "parliamentary" in describing parliamentary list to which objector belongs, an amendable mistake, 297.

**OVER-RULE**, power of court to, previous decisions, 253, note (a).

**OVERSEERS'** "place of transacting parochial business," 293.

**OWNER**, when a public officer does not occupy as, 102.

OXFORD UNIVERSITY, members of, held, on the construction of section 15 of Registration Act, 1885, not entitled to vote for borough in respect of their college rooms, by reason of break of residence, 212.

PARISH. See *Polling District*.

PARISH CLERK, has no vote in respect of his office, 28; nor in respect of ancient burial fee, 28; if possessed of freehold land by virtue of his office, he is within the exception in section 18 of Reform Act, 1832..33; appointment to office of, need not be by deed, 33.

PARISH LIST, to which objection refers, need not be specified in notice of objection to borough voter, 294.

PARLIAMENTARY. See *List, Omission*.

PAROCHIAL RELIEF, excusal from payment of rates, not a receipt of, 378; to father, not relief to son, 380; receipt of, during qualifying period, not an incapacity within section 28, sub-section 7, of 41 & 42 Vict. c. 26..390; where money paid by guardians for work done, constitutes, 391.

PARTNERSHIP, members of, when entitled to vote, 3, 120; members of illegal, when not entitled to be registered, 135; rating of members of, by name of firm, 359.

PEERS OF PARLIAMENT not entitled to be registered, 385; Irish peers, when not entitled to be registered, 386.

PERPETUAL CURATE, when entitled to vote in respect of land attached to perpetual curacy, 47.

PEWS, proprietors of, in Oldham Parish Church, have no freehold interest in soil of the church, 42; proprietors of, in St. Mark's Church, Liverpool, have no freehold interest in soil of the church, 48; proprietors of, in St. George's Chapel, Stonehouse, have no freehold interest in soil of chapel, 50.

PLACE OF ABODE. See *Abode*.

POLICEMEN, names of, were (before 50 Vict. sess. 2, c. 9) rightly expunged by revising barrister without objection, under section 28, sub-section 7, of 41 & 42 Vict. c. 26..393; disability of, to vote at parliamentary elections, removed by statute, 394, note (a).

POLLING DISTRICT, where parish or township is partly in one and partly in another, it is sufficient if objector describe himself as on the register of voters for the *parish* or *township*, notwithstanding sect. 22 of 31 & 32 Vict. c. 58..253.

**POOR RATE**, paid by Government on behalf of its servants, 330; paid by landlord on behalf of his tenant, 331, 337; what not sufficient evidence of tender of, 335; when a nullity, 338; when payable, although not signed by a majority of parish officers, 341; proportion of, payable by incoming tenant, 344, and note (c) on pp. 345, 346; when "made" and "deemed to be made," within the statutes, 346, and note (a), 351; excusal from payment of, 356, 359, note (a); what rates must be paid in order to qualify, 358; allowance or deduction from, 364, and note (a) on p. 365; excusal from payment of, not a receipt of "parochial relief or other alms," 378.

**POSSESSION**. See *Actual Possession*.

**POST**, where no delivery in ordinary course of, 256.

**POST OFFICE**, delay at, in transmission of stamped duplicate notices of objection does not prejudice objector, 236, 237, 242, 243.

**POSTING**, statutory mode of, not obligatory, 245, 278.

**POSTMASTER**, duties of, performed by managing clerk, 259.

**PRACTICE**, 409—444.

**PRISON**, confinement in, when a break of residence, 128.

**PROFITS (REALTY)**, receipt of, without vested right to, does not entitle to vote, 5; issuing from land owned by incorporated joint stock company do not give shareholders the right to vote, 24; issuing from land owned by corporation aggregate do not give members the right to vote, 24; right to receive money payments out of, such payments being of undefined amount and contingent on a surplus, is not an equitable interest in land or rent issuing therefrom, 56.

**PROPERTY**, local description of, when may be amended by striking out surplusage, 63.

**PUBLIC POLICY**, not contrary to, that soldiers should have votes, 186.

**PUBLICATION**, a waiver of what notices of claim, 221, 223; not a waiver of informality in notice of objection, 257, 258, 265; of £12 list, held not to have been necessarily vitiated by interpolation of heading of property list, 315; of poor rate, 338, note; lists of county occupation and new lodger claimants not invalidated by late, 401.

PUTNEY BRIDGE, shareholders in, not entitled to vote in respect of their shares, 36, 53.

QUALIFICATION, description of, in fourth column may be amended by striking out surplusage, 63; for borough, not rendered available for county vote by the fact of Revising Barrister for borough having dealt with it under section 28, sub-section 14, of 41 & 42 Vict. c. 26, 68; change of, 93; description of, as "freehold rent-charge issuing out of freehold houses," held not to have been supported by proof of an ownership in fee, 316; description of, as dwelling-house, sustained by proof of qualification under section 27 of the Reform Act, 1832, 317; description of, as "house" may be altered to "dwelling-house," 320; description of, as "dwelling-house" may not, without a declaration under section 24 of 41 & 42 Vict. c. 26, be altered to "dwelling-houses in succession," 324, 325.

QUESTIONS OF FACT, the court will not review barrister's decision on, unless manifestly wrong, 25, 107, 108, 112, 124, 129, 309, 343; the court will reverse barrister's decision on, if he states his reasons and they appear insufficient to justify it, 251.

RATE BOOK, omission of name of occupier from, 332, 349, and note (a).

RATEABLE, an inmate of rooms in a house must be, in order to be qualified as an inhabitant occupier, 152—156.

RATEABLE VALUE (£12), made up of aggregate rateable value of lands occupied under different landlords, 96; rate book not conclusive evidence of, 96.

RATES, when deducted in ascertaining net annual value of freehold, 18; payment of, by landlord, does not prevent separate occupier, as tenant, of part of a house (wholly let out in similar tenancies) from being an inhabitant occupier of a dwelling-house within the statutes, 157.

RATING, what a sufficient, 336, 337; in case of successive occupation, 339, and note (d), 357; separate for part of house, 354, and note (c), 361; of members of a firm, by name of firm, 359.

REAL ESTATE, separate, of wife, may in equity be disposed of by her as if she were a *feme sole*, note (a) on pp. 72, 73.

RECTOR, absence of, when a break of residence, 146, 147, and note (c).

REDISTRIBUTION OF SEATS ACT, 1885, construction of section 17 of, 406.

REGISTER, when complete, 397; validity of, not affected by want of strict compliance by clerk of the peace with section 47 of 6 Vict. c. 18... 397; corrections in, when ordered by the court, 397.

RELIEF. See *Parochial Relief*.

RENT, necessary expense of collecting, a charge to be deducted in ascertaining net annual value of freehold, 23; omission of amount of, from new lodger claim, a "mistake" which revising barrister is not bound to correct, 231.

RENT-CHARGE. See *Actual Possession*.

Possession of, what necessary, 7, 57; apportionable, 18; actual possession of, under Statute of Uses, 35, 58, 74; a freehold tenement, although deed contains no power of distress, 39; *cestui que trust's* freehold interest in, when compatible with trustee having absolute power of sale, 59; of sufficient value was held to qualify, although there was no present power of distress available, 61; issuing out of lands in more counties than one, held, for the purposes of the franchise, to be apportionable rateably to the quantity and value of the land in each county, 66; a tenement within 2 Will. 4, c. 45, s. 18, and 30 & 31 Vict. c. 102, s. 5... 73.

RENT-CHARGES may be joined to make up requisite value, 60.

REPAIRS, cost of, when deducted in ascertaining net annual value of freehold, 15; landlord's, not deducted in ascertaining clear yearly value under section 27 of Reform Act, 1832... 109.

RESERVED RIGHTS, qualification in respect of, must be *identical* with that which existed when Reform Act passed, 165.

RESIDENCE, compulsory, inconsistent with occupation as owner or tenant, 102, 118, 148; break of, 128, 146, 147, and note (c), 172, 174, 203, 204, 209, 212, 215, see *Exeter*; of landlord, personal or by his servants, an element in determining the question whether inmates of rooms in a house are occupiers, as tenants, or lodgers, 154, 155, note (a); colourable, insufficient to qualify, 164; may be that of a guest, 173; of lodger, 178.



REVISING BARRISTER, does not by noting entry of borough qualification under section 28, sub-section 14, of 41 & 42 Vict. c. 26, render such qualification available for the county franchise, 68; duty of, in respect of unopposed lodger claims, 181, note (a); has a discretion as to amending new lodger claim from which "address of landlord," and "amount of rent paid," have been omitted, 231; may not expunge without objection, if qualification be good on the face of it, 248; may not expunge without notice of objection, under section 28, sub-section 7, of 41 & 42 Vict. c. 26, persons who have received parochial relief within qualifying period, or have not occupied as owners or tenants during qualifying year, 390, 301; (*semble*) may not state case for appeal unless intending appellant gives notice in writing of his "desire to appeal," 441; when can amend notice of objection by supplying omitted place of abode of objector, 300; may not act upon declaration as to misdescription, unless it has been sent to town clerk in due time, 305; empowered by section 28, sub-section 12, of 41 & 42 Vict. c. 26, to alter description of qualification from "house" to "dwelling-house," 320; may not (at least in the absence of objector) restore name expunged by his colleague, 399; *quere* if he may *under any circumstances*, 400, note (a); held to have power to amend by transferring name of £12 occupier from property list to that of £12 occupiers, qualification having been rightly stated in third column, 400; affidavits by, in opposition to rule to show cause why a case should not be stated, 441.

ST. BARTHOLOMEW'S HOSPITAL, SANDWICH, brethren of, not disqualified by receipt of "alms," 381.

ST. GEORGE'S CHAPEL, STONEHOUSE, proprietors of pews in, not entitled to vote in respect thereof, 50.

ST. JOHN'S HOSPITAL, SANDWICH, brethren of, not disqualified by receipt of "alms," 381.

ST. MARK'S CHURCH, LIVERPOOL, proprietors of pews in, not entitled to vote in respect thereof, 48.

SALE, of buildings in a borough, when does not deprive occupying tenant of borough vote, 123.

SCOT AND LOT VOTER, non-payment of rates by, 167.

SEPARATE USE. See *Married Woman, Real Estate*.

SERGEANT OF MILITIA, occupation by, not as tenant, 148.

SERJEANTS-AT-MACE, appointed by Corporation of City of Hereford under their charter, not disqualified by 19 & 20 Vict. c. 69, s. 9 . . 379.

SERVANT, occupation by, as tenant, 99.

SERVICE FRANCHISE. See *Officers, Soldiers, Industrial Trainer of Workhouse, Shop Assistants.*

SEVERANCE of part of house from residue, 104, and note (c), 125, and note (b), 126, and note (b), 144—146, and notes.

SHAREHOLDERS, in incorporated joint stock company have no votes in respect of profits derived from land of the company, 24; in "The Company of Free Fishers and Dredgers of Whitstable in the County of Kent," have no votes in respect of their shares therein, 25; in Manchester Corn Exchange (an unincorporated joint stock company), have no votes in respect of their shares therein, 31; in Putney Bridge, have no votes in respect of their shares therein, 36, 53; in Sheffield Music Hall, have no freehold interest in land on which building stands, 39; in the Stock Exchange, have no qualifying interest in the land on which that institution is built, 75.

SHED, when not a "building" within section 27 of Reform Act, 1832 . . 130.

SHEFFIELD MUSIC HALL, shareholders in, have no freehold interest in land on which building stands, 39.

SHOP ASSISTANTS, when entitled to service franchise, 207.

SHREWSBURY HOSPITAL, SHEFFIELD, inmates of, have no freehold interest in their rooms, 27.

SIGNATURE, objector's, to duplicate notice of objection, sufficient evidence of original having been also signed by him, 244; objector's, to duplicate notice of objection, when sufficient, although illegible to a person unacquainted with his ordinary handwriting, 245, 246; to notice of objection must be objector's personal signature, 261; but *fac simile* thereof may be impressed by him by means of a stamp, 290; of overseers, not essential to validity of lists of voters, 396; or lists of county occupation claimants, 401.

SOLDIERS, private, entitled (as well as officers) to service franchise in respect of their rooms in barracks, 197.

SOLICITOR, service under articles to. See *Exeter.*

SPLITTING ACT, conveyance, when not void under, 369—373.

STAITHES, customary tenure in, gives vote, 82.

STAMP. See *Signature*.

STAMPED DUPLICATE NOTICE, production of, dispenses with proof of service, 217, 236, 242.

STATUTE OF USES, conveyance operating under, 35, 58, 74; conveyance not operating under, 57.

STOCK EXCHANGE. See *Shareholders*.

SUB-LESSEE, of term over sixty years, a "lessee" within section 5 of Representation of the People Act, 1867 . . 91; of term over sixty years, *quære* if qualified, unless in actual occupation, 91, note (a).

SUCCESSION, two houses occupied in, must both be described, 306, 312; houses occupied in. See *Declaration*, *List*, *Occupation*.

SUCCESSIVE OCCUPATION of houses, when sufficiently described by "house," 226; when insufficiently described, 227.

SUNDAY, service of notice of claim on, 217; service of notice of objection through the post on, 266.

SURGEON TO GREENWICH HOSPITAL, occupation by, not as owner or tenant, 102.

SURPLUSAGE in fourth column of register may be struck out, 63.

TENANT. See *Occupier as Tenant*, *Title*.

It was not competent to, to join different rents payable to different landlords to obtain vote under Chandos clause, 93; when a servant occupied as, 99; when a public officer did not occupy as, 102; occupier as, under a lease from owner, does not cease to occupy as such by reason of his letting by parol part of the premises to owner for lodgings, 116; of buildings and land, when does not lose borough vote by reason of sale by landlord of the premises, 123; distinction between, and lodger, 154, 155, note (a); one who separately occupies, as, part of a house (wholly let out in similar tenancies) is not the less an inhabitant occupier of a dwelling-house within the statutes, by reason of landlord being rated, paying the rates, doing the repairs, and not demising the passage and staircase, 157.

TENEMENT, a freehold rent-charge is a, within 2 Will. 4, c. 45, s. 18, and 30 & 31 Vict. c. 102, s. 5.. 73.

“TENEMENT AND GARDEN,” description of qualification as, held, under the circumstances of the particular case, to denote a dwelling-house qualification, 326, 328.

TENURE, burgage, vote conferred by, 8; customary, vote conferred by, 82.

TERM, assignee's equitable life interest in, does not qualify for vote, 86; assignee's *legal* life interest in, *quære* if sufficient to qualify, 87, note (a); a mere equitable interest in (other than for life), *quære* if sufficient to qualify, 87, note (a); right by contract to grant of, 90, note (a).

TERMOR, when entitled to vote for both county and borough in respect of different houses comprised in lease, 86; disqualified for county vote in respect of houses (comprised in lease) situate in borough, 87.

TITLE, landlord's, need not be proved by tenant occupier, 150.

TOWNSHIP. See *Polling District*.

TRANSFER, of name from Division One to Division Three not permissible, except on proof of municipal qualification, 163; of name of £12 occupier from wrong list to right one, held permissible, 400.

“TRAVELLING ABROAD,” when may be substituted for place of abode in second column, 310.

TRUST. See *Cestuis que trustent*.

UNIVERSITY. See *Cambridge University*, *Oxford University*.

USES. See *Statute of Uses*.

VALUE. See *Expense*, *Rates*, *Repairs*, *Rent*, *Rent-charge*.

Of freehold, capacity for profit the criterion of, 19; made up of two distinct rent-charges, 60; rateable, could be made up of aggregate rateable value of lands occupied under different landlords, 96; rateable, rate-book was not conclusive evidence of, under 30 & 31 Vict. c. 102,

**VALUE**—*continued*.

s. 6, sub-s. 2..96; of separate buildings, could not be joined to give requisite value for vote, under section 27 of Reform Act, 1832..107; yearly, a question of fact for barrister, 108; fair annual rent, the criterion of, under section 27 of Reform Act, 1832..109.

**VOTER** need not be of full age during the whole of qualifying period, 383; sufficient if he be of age on 31st July next preceding the revision, 386.

**WIFE.** See *Married Woman*.

**WINDSOR**, military knights of, held not entitled to borough vote in respect of their dwellings under section 27 of Reform Act, 1832..121; naval knights of, held not entitled to borough votes in respect of their dwellings under section 27 of Reform Act, 1832..141.

**WOMEN** not entitled to parliamentary vote, either for borough, 383; or county, 385.

**WRITING**, notice in, of “desire to appeal,” (*semble*) a condition precedent to a case being stated, 441, 442.



# SUPPLEMENT

TO THE SECOND EDITION OF

SAINT'S

DIGEST OF PARLIAMENTARY AND MUNICIPAL

# Registration Cases,

CONTAINING

AN ABSTRACT OF THE CASES DECIDED ON APPEAL FROM THE  
REVISION COURTS, 1887-1889.

BY

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## PREFACE.



THE Registration Appeals decided since the publication (in August, 1887) of the Second Edition of my Digest of Parliamentary and Municipal Registration Cases, although not numerous, are—some of them at least—of sufficient importance to justify, especially in view of the approaching period of Revision, the publication of a Supplement comprising the cases decided on appeal from the Revision Courts in 1887, 1888, and 1889. The Registration of Voters Acts having been extended to County Electors by the legislation of 1888, there seems to be an additional reason for issuing a Supplement to the Digest at the present time.

I am indebted to my friend, Mr. OCTAVUS J. WILLIAMSON, of 9, Stone Buildings, Lincoln's Inn, for some very useful suggestions.

JOHN J. H. SAINT.



## CONTENTS.

|   | PAGE  |
|---|-------|
| TABLE OF CASES . . . . .  | vii   |
| <hr/>   |       |
| OCCUPATION FRANCHISE UNDER 48 VICT. c. 3 .                                    | 1, 2  |
| COUNTY FRANCHISE—LODGINGS . . . .   | 5     |
| COUNTY (PARLIAMENTARY AND LOCAL GOVERN-<br>MENT) FRANCHISE—OCCUPATION . . . . | 8     |
| COUNTY (LOCAL GOVERNMENT) AND BOROUGH<br>(PARLIAMENTARY) FRANCHISE—OCCUPATION | 11    |
| COUNTY (LOCAL GOVERNMENT) FRANCHISE .   | 13    |
| BOROUGH FRANCHISE—RESERVED RIGHTS .   | 15    |
| BOROUGH FRANCHISE—LODGINGS . . . .  | 17—20 |
| MUNICIPAL FRANCHISE . . . . .   | 21    |
| NOTICES OF OBJECTION—COUNTIES . . . .   | 22    |
| NOTICES OF OBJECTION—BOROUGHES . . . .  | 23—30 |
| PERSONAL DISQUALIFICATIONS . . . . .  | 31—34 |





## TABLE OF CASES.



|  | PAGE |
|--|------|
| Ainsley <i>v.</i> Nicholson .....                              | 20   |
| Allen <i>v.</i> Greensill ( <i>referred to in note</i> ) ..... | 28   |
| Beal <i>v.</i> Town Clerk of Exeter .....                      | 15   |
| Bridges <i>v.</i> Miller .....                                 | 23   |
| Childs <i>v.</i> Cox .....                                     | 25   |
| Daniels <i>v.</i> Allard .....                                 | 33   |
| Donoghue <i>v.</i> Brook .....                                 | 2    |
| Druitt <i>v.</i> Gossling .....                                | 11   |
| Edwards <i>v.</i> Lloyd .....                                  | 31   |
| Gifford <i>v.</i> The Parish of St. Luke's, Chelsea .....      | 26   |
| Hartley <i>v.</i> Halse .....                                  | 29   |
| Humphrey <i>v.</i> Earle .....                                 | 22   |
| Jones <i>v.</i> Kent .....                                     | 17   |
| Knill <i>v.</i> Towse .....                                    | 13   |
| Maclean <i>v.</i> Prichard .....                               | 21   |
| Marsh <i>v.</i> Estcourt .....                                 | 8    |
| Nicholson <i>v.</i> Yeoman .....                               | 1    |
| Smith <i>v.</i> Chandler .....                                 | 19   |
| Whitwell <i>v.</i> North Riding of Yorkshire .....             | 5    |
| Wood <i>v.</i> Chandler .....                                  | 28   |



SUPPLEMENT TO THE  
DIGEST OF  
PARLIAMENTARY AND MUNICIPAL  
Registration Cases.

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OCCUPATION FRANCHISE UNDER  
48 VICT. c. 3.

*Successive occupation of two dwelling-houses, one by virtue of service under section 3 of the Representation of the People Act, 1884, and the other as an ordinary householder under the provisions of section 26 of the Representation of the People Act, 1867 (extended to counties by section 2 of the Representation of the People Act, 1884), constitutes a qualification for the parliamentary franchise, notwithstanding the different nature of the occupation of the two houses.*

NORTH RIDING OF YORKSHIRE (WHITBY DIVISION). E. claimed to be placed on division 2 of the occupiers' list as the occupier of two dwelling-houses in immediate succession. He had occupied the first house by virtue of service under section 3 of the Representation of the People Act, 1884, and the second as an ordinary tenant householder under section 26 of the Representation of the People Act, 1867.

The revising barrister decided that the different nature of the claimant's occupation of the two houses was fatal to his claim, and accordingly disallowed it.

The court (reversing the decision) held that, the fact of successive occupation of the two dwelling-

houses being established, the question as to the character of such occupation (whether as servant or as ordinary tenant) was immaterial for the purpose of the parliamentary franchise : *Nicholson v. Yeoman*, L. R. 24 Q. B. D. 145 ; 1 Scott Fox's Reg. Cas. 150.

*Absence of certain householders from their dwellings in the borough of Warrington for twenty-six days of the qualifying year, owing to their being in camp at Altcar for their annual training as militiamen, in accordance with the Queen's Regulations, held to constitute a break of residence disqualifying them for the franchise, as they could not quit the camp without permission.*

BOROUGH OF WARRINGTON. G. B. and W. J. were objected to on the occupiers' list, division 1, wherein they appeared as inhabitant occupiers. The grounds of objection to each were stated in similar terms in the notices of objection, and were as follows :—

1. That you have not for twelve months to 15th July last occupied the qualifying premises.
2. That for the six months preceding the 15th day of July last you have not resided within seven miles of the parliamentary boundary of the borough of Warrington.

G. B., who was a married man with a family, had rented a dwelling-house in the borough of Warrington as a weekly tenant, and had, by his wife, family, and furniture, occupied it during the full qualifying year, ending July 15th, 1887. He was quartermaster-sergeant of the Liverpool Regiment of Militia, stationed at Warrington. He was away from Warrington with the regiment during the annual training at Altcar, for a period of twenty-six days in all, viz., from July 1st, 1887, to July 3rd, and from July 7th to August 1st, all inclusive. He returned on July 3rd on duty to Warrington, and remained till the 7th, when he went back to the camp at Altcar, which



is about twenty-five miles from Warrington. He returned on August 1st on duty to Warrington, and subsequently went to sleep at his house there, upon verbal leave given him by his superior officer. He had never returned without leave. Reasonable leave was always given as of course, and he had never been refused such leave. He had no duties to perform at the camp at night, nor offices of any kind in reference to the men's quarters or picquet duty, more in Altcar than in Warrington. When in Warrington, and not on the annual training, he slept at his own house nightly, and required no leave. If Altcar had been nearer he would have returned home to sleep each night without leave, because no leave would be required, as he was not wanted for any purpose in camp as a non-commissioned non-combatant.

W. J., with his wife and family, occupied a dwelling-house in the borough of Warrington as a weekly tenant during the whole of the qualifying year ending July 15th, 1887. He was a drummer in the band of the Liverpool Militia Regiment, and on the permanent staff. He was away at Altcar for twenty-seven days. He returned home during that time to his wife and family at Warrington on three occasions—once with written, twice with verbal, leave, and twice in one week. He was never refused leave. He had no duties to perform in camp after twelve, noon, parade. Sometimes on Tuesday and Friday he played at the officers' mess dinner. The band did not play every evening. He had no quarters in barracks, and received lodging money all the year round. He paid rent, as other householders, from his own earnings. He could remove to any other house he chose. The military authorities exercised no superintendence over his choice, and he was not bound to reside within any given distance, and, unless he received special instructions to the contrary, having no duties to perform, he would return home from Altcar, if it were convenient or practicable, every night. He had no intention to give up his house or

remove while at Altcar, but to return when it suited him, and at the end of training. He had always so returned to his own residence since he first went with the regiment to Altcar. The revising barrister's attention was drawn to the Army Act, 1881, ss. 15, 175, and 176, as amended by the Acts of 1885, 1886, 1887, and to the Queen's Regulations, 1883, s. 8, paragraph 87.

The revising barrister, being of opinion that the facts of the case disclosed no legal compulsion of absence, disallowed the objections, and retained the names of G. B. and W. J. on the list of voters.

The court (reversing the decision) held, in accordance with *Ford v. Barnes* (L. R. 16 Q. B. D. 254), and *Spittal v. Brook* (L. R. 18 Q. B. D. 426), that G. B. and W. J. were, as militiamen, under a legal compulsion to be absent from their homes during part of the qualifying year, and consequently there was a break of their residence, which disentitled them to have their names retained on the list of voters: *Donoghue v. Brook*, 57 L. J. Q. B. D. 122; 1 Scott Fox's Reg. Cas. 100; 58 L. T. N. S. 411.

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## COUNTY FRANCHISE—LODGINGS.

*Revising barrister held to have no jurisdiction to allow a lodger claim, which had not been sent to the overseers within the time prescribed by statute.*

A. P. M. occupied lodgings in Guisborough for more than two years preceding 15th of July, 1889. The lodgings were of the qualifying value for a vote, and were occupied under such circumstances as to entitle A. P. M. to be entered on the old lodgers' list for the ensuing year, provided he had made a proper claim to be registered in respect of such lodgings.

On the 25th of July, 1889, A. P. M. filled up and signed an old lodger claim which was duly attested. This claim was addressed "To the Overseers of the Parish or Township of Guisborough," and was on the same 25th of July sent by A. P. M. to an agent for the purpose of its being transmitted by him to the overseers. The claim was received by the agent by the morning post of 26th of July. It was not forwarded to the overseers till the 16th of September. A. P. M.'s name was not published by the overseers on any list of claimants or voters for the purposes of revision. At a court held by the revising barrister at Guisborough on 12th of September, 1889, for the revision of the Guisborough lists, A. P. M. appeared in person, and applied to have his name inserted in the lodgers' list on a statement of the above facts. His claim was opposed by a person not duly qualified to oppose it, and whose grounds of opposition were that the claim had been made too late, that it had never reached the overseers, and that the revising barrister had therefore no jurisdiction to recognize it. It was proved to the revising barrister, and admitted

by the opponent of the claim, that if it had been delivered to the overseers on 25th of July, no objection could have been maintained against the vote. No other person opposed the claim. The revising barrister adjourned the decision of the case to a subsequent court, in order that the claim might in the meantime be actually delivered to the Guisborough overseer, and by him transmitted to the revising barrister, and that any other objector might have an opportunity of opposing the claim at such subsequent court.

At the adjourned court, held at Middlesbrough on 18th of September, 1889, the claim was delivered to the revising barrister by the Guisborough overseer (to whom it had in the meantime been sent), and upon the revising barrister asking whether any person objected, the former objector, stating that he appeared on behalf of Mr. William Whitwell, a duly qualified objector, who was not present in court, repeated that the ground of his opposition to the claim was that it had not been delivered to the overseers at the proper time. No other person opposed the claim, which was admitted to be good in every other respect. The revising barrister decided that he had jurisdiction to admit the claim, and inserted the claimant's name in the Guisborough lodgers' list. The ground of the decision was, that although it is an essential part of a lodger's qualification that he should have made a claim in the statutory form, it is not indispensable that the claim should actually reach the overseers on the day prescribed by the directions contained in the Registration Acts and the schedules thereto. The revising barrister, in stating the special case, referred especially to 48 Vict. c. 15, s. 18.

In the judgment of the revising barrister, the publicity given to the proceedings at the Guisborough revision court was sufficient to ensure the presentation, either there or at Middlesbrough, of any objection which might conceivably have been made and sustained by any person to the claim on its merits. The

revising barrister stated that, in so far as the matter might be within his discretion, he exercised such discretion in favour of the voter, being of opinion that no injustice was done to anyone by the admission of the claim.

The question stated in the special case for the opinion of the court was whether, under the circumstances, the revising barrister had jurisdiction to admit the claim.

The court (reversing the decision) held that the omission by the claimant to send in his claim by the day prescribed by the legislature was a matter of substance, not of form, to which alone 48 Vict. c. 15, s. 18, could apply, and that consequently the revising barrister had exceeded his jurisdiction by allowing the claim: *Whitwell v. North Riding of Yorkshire*, 1 Scott Fox's Reg. Cas. 152.

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## COUNTY (PARLIAMENTARY AND LOCAL GOVERNMENT) FRANCHISE — OCCUPATION.

*Where farm labourers claimed to be entered on division 1, and the facts were that they occupied (by permission) cottages on their employers' farms on the terms that they were to give up possession when their employment ceased, and were either charged a reduced rent or had the rent deducted from their wages, but paid no poor rates, such rates being paid as a whole by the employer, the names of the claimants, however, being entered in the occupiers' column of the rate-book: it was held that the claimants were qualified, not merely as parliamentary, but also as county electors.*

*Section 32 of the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), does not repeal or limit the operation of section 19 of the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), as declared by section 14 of the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26).*

ISLE OF WIGHT. Fifty-eight farm labourers claimed, each as the occupier of a dwelling-house, to have their names inserted in division 1 of the parish of Newchurch list of voters as parliamentary electors for the parliamentary county of the Isle of Wight, and as county electors for the administrative county of Southampton. Each occupied a cottage on a farm, but was not required to do so by the farmer, his master, who allowed him to reside under a verbal agreement, by which he was to pay a reduced rent,

or to have the rent deducted from his wages, and was to give up possession as soon as his employment ceased. Each of the claimants had occupied a cottage on his employer's farm upon these terms for the qualifying period, but none of them had paid any rates. The cottages were rated with the farms, and the rates paid as a whole by the employer; but the names of the claimants respectively appeared in the occupiers' column of the rate-book, indicating the claimants as the occupiers of the cottages on the farms, in some cases from a return in writing furnished to the overseers by the farmer himself, in other cases from information otherwise obtained by the overseers.

The claims were opposed on the ground that the claimants were not entitled to have their names inserted in division 1; and that they were not entitled to be registered as county electors, their occupation being a service franchise within section 3 of 48 Vict. c. 3. On the other side it was contended that the claimants were, each of them, entitled to be placed on division 1, both as parliamentary and county electors, as possessing, by virtue of section 2 of the Representation of the People Act, 1884 (48 Vict. c. 3), a household qualification; they not being *required* to inhabit by virtue of their service or employment the cottages in which they resided; and that being possessed of such household qualification they were entitled, under section 2 of the County Electors Act, 1888 (51 Vict. c. 10), to be registered as county electors.

The revising barrister decided that the claimants were not entitled to be registered as county electors, but only as parliamentary electors, in respect of occupation by virtue of service under section 3 of the Representation of the People Act, 1884. He accordingly transferred the claimants' names from division 1 to division 2.

The court (reversing the decision) held that the facts showed an occupation by the claimants not by virtue of service, but as householders; that section 32

of the Municipal Corporations Act, 1882, did not apply; that the claimants possessed a burgess qualification, and were, therefore, entitled to be placed on division 1 of the occupiers' list, both as parliamentary, and as county electors: *Smith v. Seghill* (L. R. 10 Q. B. 422) followed, *Maclean v. Prichard* (L. R. 20 Q. B. D. 285) distinguished: *Marsh v. Estcourt*, L. R. 24 Q. B. D. 147; 1 Scott Fox's Reg. Cas. 157.

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## COUNTY (LOCAL GOVERNMENT) AND BOROUGH (PARLIAMENTARY) FRAN- CHISE—OCCUPATION.

*Joint occupation by two persons of a dwelling-house of the clear annual value of £20 entitles each to the franchise, the proviso in 30 & 31 Vict. c. 102, s. 3, not being applicable to such a case.*

NEW FOREST DIVISION OF THE COUNTY OF HANTS, AND THE PARLIAMENTARY BOROUGH OF CHRISTCHURCH. L. F. H. and E. D. H. claimed votes for the parliamentary borough of Christchurch, and (as county electors) for the county of Southampton. Their respective claims were as follows:—

|                      |  |                          |   |
|----------------------|--|--------------------------|---|
| Hake, Lewis Francis. | St. Michael's Vicarage, West Hill Road, Bournemouth. | House and garden, joint. | St. Michael's Vicarage, West Hill Road. |
| Hake, Edwin Denys.   | St. Michael's Vicarage, West Hill Road, Bournemouth. | House and land, joint.   | St. Michael's Vicarage, West Hill Road. |

L. F. H. was curate to the vicar of St. Michael's, who did not reside in the vicarage, but let it to L. F. H. and his brother, E. D. H. (the two claimants). The vicarage was a dwelling-house, and was used by the two brothers as a residence, and not for any commercial or business purposes. There was no land forming part of the qualification, except only the garden in which the house stood. In the rate book the name of L. F. H. only appeared as occupier, and the description of the property was "house and garden, St. Michael's Vicarage, gross estimated rental £90, rateable value £72." The rates had all been duly paid, and the two brothers had resided in the

house for the qualifying period. The name of the claimant L. F. H. was (without objection) already on division 1 of the overseers' occupiers' list in respect of the same St. Michael's Vicarage, which was described in the third column of such list as a "dwelling-house."

It was contended at the revision court, in opposition to the claims, that the qualifications stated in the claims were a misdescription of the qualifying property; that the alleged joint qualification of the claimants was in respect of one and the same house, for which one of them (L. F. H.) was already on the occupiers' list unobjected to; that the claimants could not, by describing the premises in the third column in the manner set forth in their claims, turn a household qualification into a "£10 occupation qualification," and so get two persons on the list of parliamentary voters in respect of one and the same dwelling-house, contrary to the proviso to section 3 of 30 & 31 Vict. c. 102, and the instructions contained in Sched. III. Part I., par. 5 to 48 Vict. c. 15. The revising barrister, being of opinion that the above contentions were well founded, disallowed both the claims.

The court reversed the decision: *Druitt v. Gossling*, 1 Scott Fox's Reg. Cas. 123; 60 L. T. N. S. 325; 58 L. J. Q. B. D. 109.

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## COUNTY (LOCAL GOVERNMENT) FRANCHISE.

*A county (local government) elector cannot vote in more than one electoral division of a county, although he may have been duly registered in more than one such division of the same county.*

AT an election of county councillors for the administrative county of London, which took place in January, 1889, the defendant was the presiding officer at one of the polling stations in the city of London electoral division of the said county. The plaintiff, as was admitted by the defendant, was duly registered as a county elector for the said county in the registers both of the City of London division and of the Greenwich division. The plaintiff demanded of the defendant a ballot paper to enable him to vote at the election of councillors for the City of London division, at the same time informing him that he had already voted at the election of councillors for the Greenwich division. The defendant refused to supply the plaintiff with a ballot paper, on the ground that he was not entitled to vote in more than one electoral division of the county. The plaintiff thereupon brought an action in the City of London Court to recover damages for such refusal. The judge held that the defendant's refusal was right, and gave judgment accordingly. From that decision the plaintiff appealed.

The court (Q. B. D.) dismissed the appeal (a):

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(a) This case, although not an appeal from a revision court, has nevertheless been thought worthy of insertion here, owing to its importance in connection with the law of registration of voters. The subjoined extract from the (considered) judgment of the court

*Knill v. Towse*, L. R. 24 Q. B. D. 186; 59 L. J. Q. B. D. 136.

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points to some of the reasons by which the court was influenced in coming to the conclusion that a county (local government) elector is entitled to vote in one electoral division only:—"We were much pressed with the argument for the plaintiff that the right to vote must follow the express provision of the County Electors Act, that the plaintiff was entitled to have his name placed on the list of voters for each electoral division. It was insisted that the only object of being registered is to secure a right to vote, and that, if the right was once conferred, it was unreasonable to suppose that the legislature would forthwith enact that the right should be taken away. It was said to be almost disrespectful to the legislature to suppose that in Acts of Parliament passed in the same session, and apparently intended to be read together, there could be found one set of provisions that gave, and another that took away, the right of the elector to vote in different divisions. But the argument rests upon what appears to us to be the erroneous view that the County Electors Act and the Local Government Act are to be treated as if they were one statute.

"The County Electors Act came into operation some months before the Local Government Act, and at a time when the exact form which the later Act was to take had not been decided on. We consider that the intention of the legislature must be sought from the later Act, and that it is impossible to give effect to its various provisions on this subject without holding that for the purpose of voting the electoral division of the administrative county is to be regarded as if it were a ward in a borough. It follows that the voter has only one vote at an election for an administrative county council": L. R. 24 Q. B. D. pp. 194, 195.

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## BOROUGH FRANCHISE—RESERVED RIGHTS.

*Employment of an inhabitant freeholder of Exeter as a draper's assistant in London (such employment necessitating his living in London during part of statutory period of residence) held to constitute a break of such freeholder's residence in Exeter, so as to disqualify him as a voter for that city, inasmuch as he could not, consistently with his employment, go to his home in Exeter whenever he pleased.*

CITY AND COUNTY AND BOROUGH OF THE CITY OF EXETER. R. was objected to as a freeholder on the ground that for six calendar months next previous to the 15th of July, 1887 (the year of the revision), he had not resided in Exeter or within seven miles thereof, pursuant to 2 Will. IV. c. 45, s. 31, and 41 & 42 Vict. c. 26, s. 7.

For a long time previously to January, 1887, R. had continuously resided at his father's house in Exeter as a member of his father's family, and a separate bedroom in the house was set apart for his exclusive use. He paid no rent for the bedroom, but his right by his father's permission to use it continued up to the time of the hearing of the objection. In January, 1887, R. left his father's house and went to London, where he sought, and obtained, employment under a verbal engagement as an indoor assistant in a wholesale draper's establishment, to do certain work which required his being in London while so engaged. It was understood that when the particular work for which he was engaged was completed his employment would cease. This work took him two months to complete, and on its completion he

sought other employment in London, but, failing to obtain it, he returned to his father's house in Exeter, and remained there for three weeks, when he left (in May), and went again to London for the purpose, and with the intention, of seeking employment there. Within a short time after his arrival in London he obtained employment as an indoor assistant in a London draper's establishment, and continued in such employment from that time until after the 15th of July, and did not at any time within such period return to his father's house in Exeter. His employment in London as draper's assistant required his being in London, and he might not, during the working days, have returned to his father's house at Exeter, although he could have done so from Saturday to Monday morning. R. was a single man, and had no home other than the house of his father, except under the circumstances before stated, when he was employed in London.

Held, that the objection to R. was good, inasmuch as he could not, consistently with his employment, have returned to his home in Exeter whenever he pleased: *Beal v. Town Clerk of Exeter*, 1 Scott Fox's Reg. Cas. 31; L. R. 20 Q. B. D. 300; 57 L. J. Q. B. D. 128; 58 L. T. N. S. 407.

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## BOROUGH FRANCHISE—LODGINGS.

*The declaration and attestation required by statute to be annexed to a lodger claim form a necessary part of such claim, and, if they respectively bear a date preceding that of the close of the qualifying year, they render the claim essentially defective. A notice of objection in such a case, where the ground of objection stated was "That you have not complied with the statutory requirements in making your claim," held sufficiently specific.*

**CITY OF GLOUCESTER.** The appellant was objected to by the respondent as not being entitled to have his name retained on the old lodger list for the parish of St. John the Baptist, the ground of objection being that "you have not complied with the statutory requirements in making your claim." The appellant had been entered in respect of lodgings on the register in force in 1888. After the 15th of July, 1888, and before the 25th July, 1888, he sent to the overseers a notice of claim, whereby he claimed to be placed on the old lodger list in respect of the same lodgings. The form of his claim was in accordance with form H., No. 2, in Sched. III. to the Registration Act, 1885, but the declaration of residence for the twelve months immediately preceding July 15th, and the attestation were respectively dated July 9th.

The objector contended at the revision court that the notice of claim, being dated the 9th July, six days before the expiration of the qualifying period, disclosed no sufficient qualification, and that the appellant was not entitled to have his name retained on the old lodger list for the year 1889. It was submitted on behalf of the appellant (1) that, being an



old lodger, and his name having accordingly been inserted in the list by the overseers, the revising barrister had no power to inquire into the sufficiency of the notice of claim, and that the case was governed by *Davies v. Hopkins*, 3 C. B. N. S. 376; and *Leonard v. Alloways*, 2 H. & C. 411. (2) That the notice of objection did not sufficiently state the ground of objection. (3) That the date of the notice of claim was immaterial, as it was in fact sent to the overseers after the 15th July, and not later than the 25th July, and that the publication of the list by the overseers cured any irregularity in the original claim. (4) That the revising barrister ought to amend the date of the notice of claim, if necessary, by substituting some date subsequent to 15th July for the date appearing on the notice.

The revising barrister held, that the notice of objection was sufficiently specific, and that the case was governed by *Hersant v. Halse*, L. R. 18 Q. B. D. 412; that a notice of claim disclosing a sufficient qualification was a condition precedent to the appellant's right to have his name entered or retained in the old lodger list; that his notice of claim disclosed no sufficient qualification, and was therefore invalid and ineffectual; and that the date of the notice of claim was not a mistake which the revising barrister had power to amend. The revising barrister accordingly expunged the appellant's name, and the names of thirty-nine other persons (whose appeals were consolidated herewith) from the several old lodger lists in which they respectively appeared.

The court affirmed the decision: *Jones v. Kent*, L. R. 22 Q. B. D. 204; 37 W. R. 303; 58 L. J. Q. B. D. 106; 60 L. T. N. S. 320.

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*Absence of date from attestation clause in a lodger claim, through deliberate non-compliance with form H. No. 2, in Sched. III., to the Registration Act, 1885, held fatal to the validity of such claim. Jones v. Kent (ante, p. 17) followed.*

BATTERSEA AND CLAPHAM (CLAPHAM DIVISION).  
The appellant claimed, as a new lodger, to have his name inserted in the list of voters for the parish of Clapham.

There was annexed to his notice of claim, which (except the attestation clause) was in the statutory form, a declaration of residence, dated the 13th day of August, 1888, and signed by the appellant. To this declaration was appended a form of attestation which had been adopted by the political agents on both sides, and was as follows:—

“I, the undersigned, hereby declare that I have witnessed the above signature of the above-named J. H. Smith, at the date stated above, and that I believe the above claim to be correct.

ELIZA JANE TAYLOR.”  
(*With residence and calling.*)

The claim was opposed on the ground that the declaration of the attesting witness was not dated in accordance with form H. No. 2, Sched. III. to 48 Vict. c. 15.

The revising barrister decided that the date of the declaration by the attesting witness was an essential part of the declaration, and that its omission was fatal to the validity of the notice of claim; he accordingly disallowed the appellant's claim, and the claims of 260 other persons whose appeals were consolidated herewith.

The court (on the authority of *Jones v. Kent*, ante, p. 17) affirmed the decision: *Smith v. Chandler*, L. R. 22 Q. B. D., p. 208; 58 L. J. Q. B. D. 103; 1 Scott Fox's Reg. Cas. 129; 60 L. T. N. S. 327; 37 W. R. 351.

*The declaration annexed to a lodger's claim and the claim itself are parts of an integral whole, and a mistake in such declaration may therefore be amendable under the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 28, sub-s. 2.*

MIDDLESEX (HORNSEY DIVISION). The appellant claimed to have his name inserted in the lodgers' list. The declaration (on a printed form) annexed to his claim was in the following terms:—"I hereby declare that I have during the twelve calendar months immediately preceding the 15th day of July in this year occupied as sole tenant (or as joint tenant with —), and resided in the above-mentioned lodgings, and that those lodgings are of a clear yearly value, if let unfurnished, of ten pounds or upwards." The words "or as joint tenant with" were not struck out, nor was the blank after such words filled up. The revising barrister disallowed the claim (also the claims of 125 other persons whose claims were similarly defective) on the ground that the declaration did not show whether the claimant was a sole or a joint tenant, and he declined to amend, as he held that sub-section 2 of section 28 of the Parliamentary and Municipal Registration Act, 1878, did not apply to the case.

The court (reversing the decision) held that the claim and declaration annexed thereto were parts of an integral whole, and that the power of amendment extended to the whole by virtue of 41 & 42 Vict. c. 26, s. 28, sub-s. 2: *Ainsley v. Nicholson*, L. R. 24 Q. B. D. 144; 1 Scott Fox's Reg. Cas. 146; 59 L. J. Q. B. D. 102.

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## MUNICIPAL FRANCHISE.

*The municipal franchise is unaffected by section 3 of the Representation of the People Act, 1884, which operates as an extension of the parliamentary franchise alone.*

BOROUGH OF BRIGHTON. The appellant's name was objected to on division 1 of the occupiers' list for the parish of Brighthelmstone. The qualifying premises were a coffee-house (22, Carlton Hill), let by the owner to a committee, who put in the appellant to live there and manage the place as their servant.

The premises were rated in the name of the appellant as occupier, and the receipts for the rates were made out in his name. The occupation was such as to render the appellant an inhabitant occupier by virtue of office, service, or employment under section 3 of the Representation of the People Act, 1884, and he was therefore entitled to be on division 2. The revising barrister held that the appellant did not possess a municipal as well as a parliamentary qualification, and accordingly transferred his name from division 1 to division 2.

The court affirmed the decision: *Maclean v. Prichard*, L. R. 20 Q. B. D. 285; 1 Scott Fox's Reg. Cas. 94; 58 L. T. N. S. 337; 36 W. R. 508.

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## NOTICES OF OBJECTION—COUNTIES.

*Where in a notice of objection to a name on one of the rotors' lists for the Petersfield Division of the County of Hants, objector (whose real address was "Churchyard, Petersfield") described himself as "of Churchyard, on the list of parliamentary voters for the parish of Petersfield," it was held that such description was insufficient, and the notice therefore bad.*

COUNTY OF HANTS, PETERSFIELD DIVISION. The appellant was objected to on the occupiers' list for the parish of Hambledon. The concluding part of the notice of objection was as follows:—" (Signed) George Chapman, of Churchyard, on the list of parliamentary voters for the parish of Petersfield." The objector lived in a house in Petersfield churchyard, and his address, as given in the occupiers' list for the parish of Petersfield, was "Churchyard, Petersfield." It was contended at the revision court that the notice was bad on the ground that "of Churchyard" was not a sufficient description of the objector's place of abode. The revising barrister, being of opinion that these words were a sufficient description, and that the notice was accordingly good, expunged the appellant's name from the list.

The court (reversing the decision) held that the description of the objector's place of abode was defective, and that the notice of objection therefore did not satisfy the requirements of 48 Vict. c. 15, s. 18, and Sched. II. Part II., form I., No. 2, of that statute: *Humphrey v. Earle*, L. R. 20 Q. B. D. 294; 1 Scott Fox's Reg. Cas. 39; 57 L. J. Q. B. D. 125; 58 L. T. N. S. 403.

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## NOTICES OF OBJECTION—BOROUGHES.

*Where in a notice of objection (dated 12th August, 1887) to a freeman of the city of Norwich, the ground of objection was stated in the following terms:—"That you do not reside at the above address" (viz., 12, Clifton Street, Norwich); but the real objection (urged at the Revision Court) was that the person objected to had not resided anywhere in Norwich, or within seven miles thereof, during the six months next preceding the 15th of July, 1887; it was held that the ground of objection stated in the notice did not cover the real objection, and that the notice was, therefore, bad in substance, and was not amendable as a "mistake" under section 28, sub-section 2, of 41 & 42 Vict. c. 26.*

CITY OF NORWICH. The appellant's name was objected to on the freemen's list, where the entry of his name and place of abode appeared as follows:—

| Name of Voter.     | Place of Abode.    |
|--------------------|--------------------|
| Henry Bridges..... | 12, Clifton Street |

The notice of objection was in the following form:—

*"Notice of Objection.*

"To Mr. Henry Bridges, of 12, Clifton Street, in the hamlet of North Heigham, in the city of Norwich and county of the same city.

"I hereby give you notice that I object to your

name being retained in the list of persons entitled as freemen to vote in the election of members for the city of Norwich and county of the same city on the following grounds, viz. :—

“That you do not reside at the above address.

“Dated this 12th day of August, 1887.

“Signed [*Name, address, &c.*].”

The appellant did not for six calendar months next preceding the 15th of July, 1887, reside at 12, Clifton Street, or within the city of Norwich, or within seven miles thereof, and was, therefore, not entitled under 2 Will. IV. c. 45, s. 32, or otherwise, to have his name on the freemen's list of voters.

It was contended at the revision court on behalf of the appellant that the notice of objection was bad, because the ground of objection stated therein did not point to his not having resided at 12, Clifton Street during the qualifying period of residence, but only to his non-residence thereat at the date of the notice.

On behalf of the objector, the revising barrister was then asked to amend the notice, so as to raise the objection of non-residence within Norwich or seven miles thereof during the qualifying period of residence.

The revising barrister considered that the notice was informal on the grounds urged by the appellant, but that it gave sufficient information to the appellant that objection would be taken that he did not reside at 12, Clifton Street, or elsewhere in Norwich, or within seven miles thereof, during the qualifying period of residence, and that the revising barrister had power, under section 28, sub-section 2, of the Parliamentary and Municipal Registration Act, 1878, to make the amendment asked. He accordingly amended the notice by inserting therein the following as the grounds of objection :—

“That you have not resided at the above address

for six calendar months next preceding the 15th day of July last, and that you have not throughout that period resided within the city of Norwich or within seven miles thereof"; and allowing the objection, he expunged the appellant's name from the list.

The court (reversing the decision) held that the ground of objection stated in the notice did not cover the real objection, and that the notice was, therefore, bad in substance, and not amendable as a "mistake" within the power of amendment conferred upon the revising barrister by section 28, sub-section 2, of the Parliamentary and Municipal Registration Act, 1878: *Bridges v. Miller*, L. R. 20 Q. B. D. 287; 1 Scott Fox's Reg. Cas. 47; 57 L. J. Q. B. D. 125; 58 L. T. N. S. 405.

*Where notices of objection addressed to voters at Woolwich Barracks, at which there was no postal delivery of letters, were posted (pursuant to 6 Vict. c. 18, s. 100) at Woolwich at 6 p.m. on 20th of August, 1887, but were not proved to have been delivered on that day, except to orderlies, who by military arrangement called at the post office for letters intended for the barracks, it was held that there was no "ordinary course of post" (within 6 Vict. c. 18, s. 100), whereby the notices in question could have been delivered on the 20th of August, 1887, to the persons to whom they were addressed, and consequently that the production of the stamped duplicates was not available to the objector as evidence that the notices had been given to such persons on that day.*

**BOROUGH OF WOOLWICH.** Notices of objection addressed to soldiers at their quarters at Woolwich Barracks were posted by the objector at Woolwich on the 20th of August, 1887, at about 6 p.m. He produced stamped duplicates at the revision court, where the following evidence was given as to the circumstances under which the notices were posted:—Letters posted at Woolwich at 6 p.m. would, in the

ordinary course of post, be delivered in Woolwich elsewhere than at the barracks on the same evening by a delivery which commenced about 9 p.m. Letters addressed to the barracks were not delivered there by postmen, but were called for and received at the post office by orderlies, pursuant to military regulations, and directions to the postmaster.

On the evening of the 20th of August, 1887, the letters for the barracks were delivered at the post office to orderlies who called for them, and who distributed them at the barracks, some the same evening, others on the following morning.

The revising barrister held that there was no evidence that the objector had given the notices required by law, as it did not appear that there was any "ordinary course of post" within 6 Vict. c. 18, s. 100, by which the notices would have been delivered to the persons objected to on the 20th August, 1887.

The court affirmed the decision: *Childs v. Cox*, L. R. 20 Q. B. D. 290; 1 Scott Fox's Reg. Cas. 84; 58 L. T. N. S. 338.

*Where an objector had left (by way of service) a notice of objection at the voter's place of abode as stated in the overseers' list, but the voter had ceased to reside there before the notice was so left, it was held, in the absence of a reasonable probability that the notice would reach him, that the service was insufficient.*

BOROUGH OF CHELSEA. J. H. was objected to on division 1, wherein his name and description were entered as follows:—

Horner, John | 19 Denyer street | Dwellinghouse | 19 Denyer street

The ground of objection, as stated in the notice of objection, was "That you have not occupied as owner or tenant the premises described in the overseers' list for twelve months to July 15th, 1889."

The notice of objection, which was addressed to

J. H., at 19, Denyer Street, was (by way of service) deposited by the objector (the appellant), and left by him, in the opening of the letter-box attached to the front door of the house. J. H. had formerly lived at 19, Denyer Street, but two years previous to the revision he had left the house and had never since resided there, and his place of abode at the time of the revision was not known to the objector.

There was no evidence that J. H. had received the notice, or that it was probable that a notice left at the house, 19, Denyer Street, would reach him. It was contended for the appellant that there had been a sufficient service of the notice of objection by leaving it (as the appellant had done) at the former place of abode of J. H., and that the appellant had complied with the requirements of 6 Vict. c. 18, s. 17, in causing the notice to be "left at the place of abode" of J. H. "as stated in the said list." The revising barrister found as a fact that 19, Denyer Street, was not at the time of the service of the notice J. H.'s true place of abode, but that it was his place of abode "as stated in the said list;" also that J. H. would not receive, and that the appellant had no reasonable ground for presuming that J. H. would receive, a notice of objection left at 19, Denyer Street. Upon these grounds, and upon the ground that the appellant might have effected a sufficient service of the notice of objection by sending it through the post under the provisions of section 100 of 6 Vict. c. 18, the revising barrister decided that there had not been a sufficient service of the notice, and retained J. H.'s name, and the names of other persons (whose appeals were consolidated herewith), upon the list of voters.

The court affirmed the decision (a): *Gifford v. The*

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(a) Lord Coleridge, L. C. J., in delivering judgment, observed as follows:—"There are three modes in which an objector may serve a notice of objection, and the object of each method is to give the person objected to actual knowledge of the fact of the objection. The objector may effect personal service; then he is



*Parish of St. Luke's, Chelsea*, 1 Scott Fox's Reg. Cas. 139; 59 L. J. Q. B. D. 98.

*Where a notice of objection to a name on the Clapham occupiers' list concluded with the words " (Signed) Raymond Batchelor, of 624, Wandsworth Road, on the list of parliamentary voters for the parliamentary borough of Battersea and Clapham," it was held that the omission to state the parish list on which objector's name appeared (as required by section 18 of the Registration Act, 1885, and form I., Nos. 1 and 2, in Sched. III. of that statute) was a defect in substance which invalidated the notice, notwithstanding the saving clause in section 18 of the same statute.*

BOROUGH OF BATTERSEA AND CLAPHAM. The appellant was objected to on the Clapham occupiers' list of parliamentary voters for the parliamentary borough of Battersea and Clapham. The notice of objection was signed as follows:—"Raymond Batchelor, of 624, Wandsworth Road, on the list of parliamentary voters for the parliamentary borough of Battersea and Clapham." The borough of Battersea and Clapham consisted of two divisions, the Battersea division and the Clapham division, and it contained two parishes—one the parish of St. Mary, Battersea, and the other the parish of Clapham. The Battersea division was wholly in the parish of

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quite sure that the person served knows of the fact. Or secondly, service may be effected through the post office in the manner pointed out by sect. 100 of the act we are considering" (6 Vict. c. 18); "that throws the responsibility on the post office authorities. . . . Or thirdly, the objector may leave the notice at the place of abode of the person objected to as stated in the list; but if the objector chooses that method, he must take care that the place is the place of abode of the person in fact: otherwise an objector might go to a place which he knows the man does not inhabit for the very purpose of serving an illusory notice, which the person objected to will never get." See also the observations of Wilde, C.J., in *Allen v. Greensill*, 1 Lutw. on pp. 596, 597.

St. Mary, Battersea; the Clapham division was partly in that parish and partly in the parish of Clapham. The name of the objector was on the list of occupiers for the parish of Clapham in the Clapham division.

The revising barrister held, on objection, that the notice was good, and expunged the name of the appellant and those of twenty-five other persons who were objected to by similar notices, and whose appeals were consolidated herewith.

The court (reversing the decision) held that the objector's omission to state, in his notice of objection, the parish on the list of voters for which his name appeared (as required by section 18 of 48 Vict. c. 15, and form I., No. 2, in Sched. III. of that statute) was a defect in substance, and was not cured by the concluding words of section 18: *Wood v. Chandler*, L. R. 20 Q. B. D. 297; 1 Scott Fox's Reg. Cas. 61; 57 L. J. Q. B. D. 126; 36 W. R. 522.

*Where a notice of objection referred to the person objected to as being "on the occupiers' list of parliamentary voters for the south division of the parliamentary borough of St. Pancras, and as a county elector for the county of London" (without specifying the number of the division, pursuant to form I., No. 2, in Sched. III. to Registration Act, 1885, s. 18), it was held that the notice, if not good without amendment, was at any rate amendable by the insertion of the words "division 1" after the word "list."*

BOROUGH OF ST. PANCRAS (SOUTH DIVISION). The appellant's name, which was on division 1, was objected to. The notice of objection, so far as is material, was in the following words:—"I hereby give you notice that I object to your name being retained on the occupiers' list of parliamentary voters for the southern division of the parliamentary borough

of St. Pancras, and as a county elector for the county of London, on the following grounds" (stating them). The occupiers' list for the southern division of the borough was made out (according to the provisions of the County Electors Act, 1888) in three divisions, division 1 containing the names of occupiers qualified both as parliamentary voters and as county electors, division 2 containing the names of occupiers qualified as parliamentary voters only, and division 3 containing the names of occupiers qualified as county electors only. The appellant contended that the notice of objection was invalid, because it omitted to specify the particular division to which the objection referred.

The revising barrister was of opinion that the notice of objection was bad as it stood, but that he had power to amend it, and that he might properly do so, because the notice, being in terms an objection to the appellant both as a parliamentary voter and as a county elector, indicated division 1 as that to which the objection referred, and was therefore unlikely to mislead. The notice of objection was accordingly amended by the insertion of the words "division 1" after the word "list," and, the ground of objection having been proved, the name of the appellant was expunged from the list.

The court (affirming the decision) held that, whether or not the notice of objection would have been good without amendment, the formal defect arising from the omission of the words "division 1" was a "mistake" within the Parliamentary and Municipal Registration Act, 1878, s. 28, sub-s. 2, and that the revising barrister had rightly exercised his discretion by amending it: *Hartley v. Halse*, L. R. 22 Q. B. D. 200; 1 Scott Fox's Reg. Cas. 118; 37 W. R. 302; 60 L. T. N. S. 322; 58 L. J. Q. B. D. 100.

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## PERSONAL DISQUALIFICATIONS.

*The occupiers of almshouses in Christ's Hospital, Ruthin, being persons who, under the scheme of the charity, are, from age, ill-health, accident, or infirmity, unable to maintain themselves by their own exertions, held to be disqualified for registration as parliamentary and municipal voters, notwithstanding that some of them were earning on an average from three shillings to nine shillings a week in addition to what they received from the charity : Harrison v. Carter (L. R. 2 C. P. D. 26), and Baker v. Town Clerk of Monmouth (53 L. T. N. S. 668), followed.*

**BOROUGH OF RUTHIN.** The names of John Evans and of four other persons (whose cases were consolidated herewith) appeared in division 1 of the list of voters. These persons were duly objected to by the appellant upon the ground that they had been, during the qualifying year, in receipt of alms, which, by the law of parliament, disqualified them for registration as parliamentary and municipal voters. Each of them, under the benefit of a charitable endowment known as the Hospital of Christ, inhabited an almshouse belonging to the said hospital and received an allowance of six shillings a week out of the funds thereof. The almshouses and charitable endowment in question were managed, and all arrangements connected with them were carried out, under a scheme of the Charity Commissioners, confirmed by 26 & 27 Vict. c. 59, a copy of which Act was annexed to the special case.

Under this scheme the establishment of the hospital consisted of a warden and twelve almspeople,

of whom ten were poor men, called brethren, and two, poor women, called sisters. The almspeople respectively were poor persons, not less than fifty years of age, who had resided within the borough of Ruthin, without receiving parish relief, for not less than three years next preceding the time of their appointment, and *who from age, ill-health, accident, or infirmity, were unable to maintain themselves by their own exertions*, with a preference for those persons who, being otherwise qualified, had become reduced by misfortune from better circumstances.

If any person should be guilty of insobriety, insubordination, breach of rules, or immoral or unbecoming conduct, the governors might remove such almsperson and appoint another almsperson to fill his or her place. No almsperson could let the room or rooms allotted to him or her, or suffer any stranger to occupy the same or any part thereof.

The governors might from time to time prescribe such reasonable regulations as they might consider expedient for the government of the almshouses and the inmates thereof, provided that no such regulation was at variance or inconsistent with any of the provisions of the scheme.

Four of the persons objected to were earning money (in addition to what they received from the charity) varying in amount from an average of three shillings a week to an average of nine shillings a week. Assuming the non-existence of the charity, the persons objected to would not have been obliged to rely upon the poor law for the means of subsistence.

The revising barrister, being of opinion that the house-room and allowance received by the persons objected to under the scheme of the charity did not amount to the receipt by them of parochial relief or other alms within section 36 of the Reform Act, 1832, retained their names on the list of voters.

The court reversed the decision in accordance with the principles laid down in *Harrison v. Carter* (L. R. 2 C. P. D. 26), and *Baker v. Town Clerk of Monmouth*



(53 L. T. N. S. 668): *Edwards v. Lloyd*, L. R. 20 Q. B. D. 302; 1 Scott Fox's Reg. Cas. 54; 57 L. J. Q. B. D. 121; 58 L. T. N. S. 409.

*The inmates of the Licensed Victuallers' Asylum, Camberwell, are not, by reason of their position in that institution and their pecuniary allowance from the funds thereof, necessarily in receipt of alms which disqualify for the franchise under section 6 of the Reform Act, 1832.*

BOROUGH OF CAMBERWELL (PECKHAM DIVISION). The respondent was an inmate of the Licensed Victuallers' Asylum, Camberwell (an institution incorporated by Royal Charter in 1842), and claimed to have his name inserted in the list of occupiers. His claim was opposed, as were also the claims of fifty-two other persons (likewise inmates of the said asylum), each of whom made a similar claim. The claimants were, or had been, either subscribers or donors to the funds of the institution. Upon vacancies occurring in the asylum, applicants were elected by the members and subscribers under regulations made by the chairman and board of management. The conditions of eligibility for admission included the following:—(1) The necessity of the applicant having held a victualler's licence for a period of seven years; and (2) of his having paid an annual subscription of at least one guinea for seven years, or (3) of his having given a donation of five guineas or upwards. Such donation constituted the donor a life member of the institution. Only decayed licensed victuallers, being donors or subscribers, were eligible for admission, and upon admission the person so admitted was entitled to a house free of rent, and to a weekly allowance. The inmates were subject to regulations for the good government of the institution, one of such regulations being that the outer gates had to be closed at 10 p.m., and re-opened at 7 a.m. The income of the institution was derived from the subscriptions and

donations of the members themselves, and was also largely augmented by the benevolence of persons not themselves licensed victuallers.

The revising barrister having allowed the claims, the court affirmed the decision on the ground that there was nothing in the position of the inmates of the institution necessarily showing that they were in receipt of alms such as to disqualify them for the franchise under section 36 of the Reform Act, 1832: *Daniels v. Allard*, 1 Scott Fox's Reg. Cas. 70.

SECOND SUPPLEMENT

TO THE SECOND EDITION OF

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Registration Cases,

CONTAINING

AN ABSTRACT OF THE CASES DECIDED ON APPEAL FROM THE  
REVISION COURTS, 1890 and 1891.

BY

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## CONTENTS.

---

|   | PAGE |
|---|------|
| TABLE OF CASES . . . . .                        | v    |
| <hr/>   |      |
| COUNTY FRANCHISE—FREEHOLDS . . . . .            | 1    |
| BOROUGH FRANCHISE—OCCUPATION . . . . .          | 3    |
| BOROUGH FRANCHISE—LODGINGS . . . . .            | 9    |
| NOTICES OF CLAIM—COUNTIES . . . . .             | 11   |
| NOTICES OF OBJECTION—BOROUGHES . . . . .        | 13   |
| SUFFICIENCY OF DESCRIPTION IN LISTS OF VOTERS . | 16   |
| PERSONAL DISQUALIFICATIONS . . . . .            | 19   |
| PRACTICE . . . . .                              | 22   |





## TABLE OF CASES.

|  | PAGE |
|--|------|
| Arnold <i>v.</i> Sharpe . . . . .      | 23   |
| Body <i>v.</i> Halse . . . . .         | 9    |
| Brown <i>v.</i> Tombs . . . . .        | 11   |
| Dix <i>v.</i> Kent . . . . .           | 19   |
| Fenning <i>v.</i> Halse . . . . .      | 10   |
| Gale <i>v.</i> Overend . . . . .       | 15   |
| Hall <i>v.</i> Metcalfe . . . . .      | 4    |
| Harris <i>v.</i> Phillips . . . . .    | 1    |
| Hunt <i>v.</i> Halse . . . . .         | 10   |
| Jones <i>v.</i> Pritchard . . . . .    | 6    |
| Lord <i>v.</i> Fox . . . . .           | 17   |
| Mackay <i>v.</i> McGuire . . . . .     | 3    |
| Moore <i>v.</i> Atkinson . . . . .     | 15   |
| O'Connor <i>v.</i> Nicholson . . . . . | 22   |
| Plant <i>v.</i> Potts . . . . .        | 16   |
| Robinson <i>v.</i> Potts . . . . .     | 16   |
| Sutton <i>v.</i> Wade . . . . .        | 13   |



SECOND SUPPLEMENT  
TO THE  
DIGEST OF  
PARLIAMENTARY AND MUNICIPAL  
Registration Cases.

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COUNTY FRANCHISE—FREEHOLDS.

*Members of the Dean and Chapter of Lincoln Cathedral, respectively entitled under 4 & 5 Vict. c. 39 (s. 25), to fixed shares in the corporate revenues of the Cathedral, have no qualifying interest in respect of a freehold house and land from which (inter alia) those revenues are derived.*

LINCOLNSHIRE (SLEAFORD DIVISION). K. L. and V. were described respectively on the list of ownership voters as possessing a freehold qualification in respect of a house and land situate at Wellingore. The voters were members of the Dean and Chapter of Lincoln Cathedral, of which they were canons residentiary. The Dean and Chapter were nominally the owners of the house and land in question. By 4 & 5 Vict. c. 39, s. 25, the revenues derived from the said house and land and from other properties are divided into six shares, of which two are to be paid to the Dean and one to each canon. It was objected that the said house and land belonged to the Dean and Chapter as a corporation aggregate, and that the canons, as members of that corporation aggregate, were not entitled to vote in respect of their shares in the property. The revising barrister was of opinion that the voters were respectively corporations sole as well as members of a corporation aggregate; that the Dean and Chapter were only

bare trustees of the house and land, and that the three voters objected to were *cestuis que trustent* in actual receipt of the rents and profits, and that, by virtue of section 74 of 6 Vict. c. 18, they were entitled to vote for the said house and land. He accordingly disallowed the objections, and retained the names objected to on the list of voters. The court (reversing the decision) held that the persons objected to, being members of a corporation aggregate, had no such interest in the house and land in question as would qualify them for the franchise: *Harris v. Phillips*, L. R. [1891] 1 Q. B. 267; 1 Scott Fox's Reg. Cas. 223.

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## BOROUGH FRANCHISE—OCCUPATION.

*The fact of an occupier as tenant of a dwelling-house having been adjudicated a bankrupt during the qualifying year held not to constitute a break in the voter's occupation as tenant, where the trustee in bankruptcy had not interfered, and the landlord continued to accept rent from the occupier, as before the adjudication.*

CITY OF YORK. W. B. was objected to on the list of voters, wherein his qualification was described as "dwelling-house, Walmgate." The ground of objection was that he had not occupied as tenant the house in question throughout the qualifying period, 1889—1890. He was a yearly tenant; he was adjudicated bankrupt on the 17th of October, 1889. His occupation of the house was never disturbed by the landlord or anyone else, so that from the commencement to the end of the qualifying period it was continuous. For the residue of the period after the adjudication, the landlord on the usual quarter days accepted the rent from the voter. No act of any kind in relation to the bankrupt and his dwelling-house was ever done or signified by anyone officially connected with the bankruptcy. Under these circumstances, the revising barrister considered this occupation of the dwelling-house to have been always clothed with the legal character of tenancy, at first by contract, then by implication of the common law as a tenancy at will, and subsequently, by acceptance of the rent, as a yearly tenancy. He therefore disallowed the objection, and retained the name of W. B., and three other names objected to on the same ground, on the list of voters. The

court affirmed the decision: *Mackay v. McGuire*, L. R. [1891] 1 Q. B. 250; 1 Scott Fox's Reg. Cas. 201; 39 W. R. 109; 55 J. P. 214.

*The occupation of "stands" in Spitalfields Market, at annual payments of more than £10 for each stand, held to be an occupation of "land or tenement," so as to qualify under section 5 of the Representation of the People Act, 1884.*

BOROUGH OF THE TOWER HAMLETS (WHITECHAPEL DIVISION). Two voters—Charles Allen and Jabez Charles Abbott—were objected to on the list of occupiers, wherein their names appeared as follows:—

|                       |                         |        |                         |
|-----------------------|-------------------------|--------|-------------------------|
| Allen, Charles.....   | Spitalfields<br>Market. | Stand. | Spitalfields<br>Market. |
| Abbott, Jabez Charles | Spitalfields<br>Market. | Stand. | Spitalfields<br>Market. |

The grounds of objection relied on in each case were:—

That the voter had not occupied as tenant the premises described on the overseers' list continuously for twelve months to July 15, 1891, and that he had no land or tenement within the meaning of section 5 of the Representation of the People Act, 1884.

The facts of the case were substantially as follows:—

Spitalfields Market comprised an area of land situate on the west side of Commercial Street, and was owned by H. as lessee from the freeholder, and was used for the sale of vegetables and fruit. The market was bounded on the east side thereof by the back walls of the houses in Commercial Street, and was covered with a glass roof supported by columns to protect it from the weather, and, except on the east side thereof, there were no walls or other erections beyond iron railings separating the market from the adjoining streets or property. The site of the market was let by H. in separate plots or pieces of land, commonly called "stands," to numerous

persons, and two of these stands, which were respectively of more than £10 annual value, were let by H., as to one of them, to the said Charles Allen, and as to the other, to the said Jabez Charles Abbott, who had for the qualifying period respectively occupied the same stands.

The market was rated as one property, and the rates had been duly paid by H.

The practice was to let these stands to the occupiers for specified periods arranged between them and the owner of the market, according to the requirements of the occupier, and for the tenancies to continue until determined by notice to quit. There was no fixed time for which such notice had to be given, but it was usual for H., when he desired to remove a tenant, to give a notice which was generally, but not invariably, in writing. The stands were not numbered, nor had they any distinguishing marks on them, but the precise position in the market of the stand or piece of land which each occupier was entitled to, though not enclosed by H., was defined and well known to him and to the occupier of such stand, and to the occupiers of all the other stands in the market, and any person desiring to find the stand of a particular occupier could readily do so by inquiring of any of the porters at the market, or of any person acquainted with it. Each stand occupier paid a fixed rent for his stand, which was, in the respective cases of the persons objected to, more than £10 per annum, and this rent was payable by the occupier, whether the stand was actually used by him or not.

In addition to the fixed rent, each stand occupier had to pay toll to the owner in respect of the goods which he (the stand occupier) sold. In a considerable part of the market, the stands were boarded over or paved, and stalls were placed thereon by the occupiers for the purpose of exposing their goods for view and sale, and these stalls were in almost every instance separated from the adjoining stands by

wooden or other movable partitions, and in most cases the name of the occupier was placed by him on a board within the stall, and the goods often remained in the stalls during the night. The said Charles Allen occupied a stall of this description. The remaining part of the market consisted of an open space paved with stone, and each occupier of a stand or piece of land on this part of the market occupied and used the same for the purpose of bringing thereon his carts and waggons, from which, and from the piece of ground occupied by him, his goods were offered for sale. The said Jabez Charles Abbott occupied a stand of this description.

Upon proof of the facts above stated, the revising barrister disallowed the objections, and retained in the list the names of Charles Allen and Jabez Charles Abbott; also the names of twenty-two persons occupying stands upon which stalls had been placed as mentioned in the case, and the names of twenty-four other persons occupying stands on the said open piece of ground.

The court, considering that the revising barrister's conclusions were not inconsistent with the facts found by him, affirmed the decision: *Hall v. Metcalfe*, L. R. [1892] 1 Q. B. 208; 61 L. J. Q. B. D. 53; 1 Lacey Smith's Reg. Cas. 227.

*A house (of admittedly sufficient value) in the canonry of Bangor having been set apart for the joint occupation of the four canons of Bangor Cathedral, each of them, by arrangement with the others, occupying such house for three months in the qualifying year, it was held that this constituted an occupation by each of such canons for the qualifying year for the purpose of the franchise, subject to the necessity of residence within, or within seven miles of, the borough of Bangor, for six months immediately preceding the 15th of July of the qualifying year.*

BOROUGH OF BANGOR. Canons John Pryce and

Eleazar Williams were objected to on the occupier's list, wherein their names and descriptions appeared as follows:—

|                     |             |               |              |
|---------------------|-------------|---------------|--------------|
| Pryce, John . . . . | The Canonry | House (joint) | The Canonry. |
| Williams, Eleazar   | The Canonry | House (joint) | The Canonry. |

The grounds of objection to each voter were:—

1. That he was not, on the 15th day of July of the qualifying year, an inhabitant occupier of the qualifying premises, and had not then been an inhabitant occupier of such premises for the whole of the twelve months immediately preceding that day.

2. That he did not during such period occupy as owner or tenant of the qualifying premises.

The premises in question were occupied by the said canons, John Pryce and Eleazar Williams and two other canons, and each of such four canons usually occupied the said premises as a resident canon for three months in every year by voluntary agreement between themselves according to their convenience respectively, and in case of need, or according to such agreement and their convenience respectively, each and every of them, the said four canons, might and would himself alone occupy the whole of the said premises for more than three months in any year or for the whole of any year; and the said premises were in the exclusive personal occupation of the said canon, John Pryce, during the months of January, February, and March of the qualifying year, and he did not actually personally occupy the said premises during any other part of the qualifying year. Canon Eleazar Williams and two other canons occupied the said premises during the other nine months of the qualifying period, each occupying for three months; the said canons, when in residence, had their own servants in attendance upon them respectively; the said premises were from time to time, between the going out of one canon and the coming in of another, in the care of a servant employed by the said four canons as the servant of each and every of them, and



such servant did not reside on the qualifying premises; the furniture, which was at all times on the said premises, belonged to the said four canons jointly, and the said four canons were jointly rated for the said premises. It was not disputed that the value was sufficient. The revising barrister disallowed the objections, and decided that the said John Pryce and Eleazar Williams respectively were, and had been for the requisite period of twelve months, inhabitant occupiers of the qualifying premises, and did during such period occupy the same as owners or tenants respectively, and he therefore retained their names on the list. There being no distinction between the two cases, they were ordered to be consolidated.

The court were of opinion that the occupation of the four joint occupiers was, under the circumstances stated in the case, an occupation by each for the qualifying period entitling each to the franchise, subject to the necessity of a six months' residence in, or within seven miles of, the borough.

This point of residence not having been made a ground of objection, nor the omission to do so waived, the court dismissed the appeal: *Jones v. Pritchard*, 1 Lacey Smith's Reg. Cas. 259.

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## BOROUGH FRANCHISE—LODGINGS.

*It is essential to the validity of a lodger claim that the witness should have been an eye-witness of the claimant's signature thereto.*

BOROUGH OF ST. PANCRAS (WEST DIVISION). The appellant was objected to on the old lodger list. The ground of objection was in the following terms: "Your lodger claim has not been legally attested." The appellant had made and signed a claim bearing date the 16th day of July, 1891. The attestation (in accordance with the form given in the Registration Order, 1889) was as follows: "I, the undersigned, hereby declare that I have witnessed the above signature of the above-named claimant at the date stated above, and that I believe the above claim to be correct." The signature of the witness, which was dated the same day as the claim, followed. At the time when the appellant signed the claim, the witness (a person who well knew the claimant, and was acquainted with the facts stated in the claim) was not present, but the appellant himself, subsequently on the same day, handed the claim to the witness, who then, at the request of the appellant, subscribed the attestation. The revising barrister held that it was a necessary condition to the validity of a lodger claim that the witness should be present at the time of signature by the claimant, and that, this condition not having been fulfilled, the appellant's claim was invalid. He accordingly expunged the name of the appellant, and the names of 29 other persons (similarly circumstanced, and to whom like

objections were made) from the list of voters. The court affirmed the decision : *Body v. Halse*, 61 L. J. Q. B. D. 57 ; 1 Lacey Smith's Reg. Cas. 240 ; 40 W. R. 206 (a).

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(a) *Hunt v. Halse* and *Fenning v. Halse* were argued together with the above case, the facts being similar, except that in *Hunt v. Halse* the claimant had, after signing the claim, taken it to the witness *on the next day* for attestation, and that in *Fenning v. Halse* the claimant's *wife* had on the same day taken the claim, when signed, to the witness for attestation.

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## NOTICES OF CLAIM—COUNTIES.

*A notice of claim (Parliamentary and Local Government) may be signed in the claimant's name by a clerk to a person authorized by the claimant to make and sign such claim on his behalf, if the clerk in signing the name is acting under the express direction of the person so authorized.*

HARBOROUGH DIVISION OF THE COUNTY OF LEICESTER AND ADMINISTRATIVE COUNTY OF LEICESTER. A notice of claim for Division 1 (of proper form and date), purporting to have been signed by Thomas Brown (the appellant), was delivered to the overseers of the parish of N. P., and was published by them in terms of the claim as part of the list of occupation claimants in the ordinary course. On the name of the said Thomas Brown being called on at the Revision Court for proof of due notice of claim, Frederick Tombs (the respondent) opposed the retention of the said name in the list, on the ground that the signature, "Thomas Brown," was not written by that gentleman, and that the claim was therefore bad. The facts relating to the said signature were as follow :—The said Thomas Brown gave an authority in writing to one C. Coppack to make and sign a claim for him to vote as a Parliamentary, or Local Government, elector, or both, as he might seem qualified. The said C. Coppack, instead of affixing the name of Thomas Brown to the claim himself, directed one J. W. Pearce (a clerk in C. Coppack's office) to do so, and the said J. W. Pearce accordingly signed Thomas Brown's name at the foot of the said notice of claim. The revising barrister, although satisfied that the document in

question really and in fact emanated from the said Thomas Brown, was not satisfied, on the above facts, that he had given "due notice of his claim," and therefore expunged his name and eighteen other names (opposed on similar grounds and consolidated herewith) from the list of occupation claimants. The court (reversing the decision) held that the affixing of the signature to the notice of claim by the clerk of the agent by his direction did not establish that the claimant had not given "due notice of his claim" within 6 & 7 Vict. c. 18, ss. 37, 38 : *Brown v. Tombs*, L. R. [1891] 1 Q. B. 253 ; 1 Scott Fox's Reg. Cas. 196 ; 60 L. J. Q. B. D. 38 ; 64 L. T. N. S. 114.

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## NOTICES OF OBJECTION—BOROUGHES.

*It is a sufficient compliance with the Registration of Electors Acts, and the Registration Order, 1889, Schedule 2, Form I., No. 1, if the signature of the objector precedes the names objected to, instead of being placed after them at the foot of the notice of objection. It is no objection to a notice of objection that it contains a list or schedule of names objected to, although no such list or schedule is expressly authorised by the Forms.*

CITY OF NORWICH. The appellant's name was on Division 1 of the list of voters. The respondent had duly signed and served on the appellant a notice of objection to his name being retained on the said list. The respondent had also served on the Guardians of the Poor of the Norwich Incorporation, who, under the Norwich Corporation Act, 1889, s. 38(3), perform the duties of overseers of the parish of Norwich, a notice in the following form:—

“Polling District No. 1.

“*Notice of Objection to be given to Overseers.*

“[Parliamentary and Local Government.]

“To the Guardians of the Poor of the Norwich Incorporation, acting as and being the Overseers of the parish of Norwich.

“I hereby give you notice that I object to the names of the persons mentioned and described below being retained on the List No. 1, Division No. 1, as parliamentary electors for the parliamentary city

and county of the city of Norwich, and as citizens for the municipal city and county of the same city.

“Dated this 18th day of August, 1890.

“ (Signed) WILLIAM ARTHUR WADE,

“Of No. 136, Bull Close Road, Saint James, in the City of Norwich,

“On Division No. 1 of List No. 1 of parliamentary electors and citizens for Polling District No. 24 of the parish of Norwich, in the city and county of the city of Norwich.

| “Name of person objected to as described in the list. | Place of abode as described.” |
|---|-------------------------------|
|---|-------------------------------|

[Here followed 17 names and addresses, including the name and address of the appellant.]

The whole of the notice was written and printed on the same side of a sheet of paper. The name of William Arthur Wade therein appearing was the signature of the respondent. The notice was not otherwise signed by him.

The name of the appellant was duly published in the list of persons objected to.

It was contended by the appellant at the Revision Court that the notice to the guardians was bad, on the grounds that the name of the appellant did not appear in the body of the notice, and that, as the signature of the respondent thereto preceded the names of the appellant and the other persons objected to, the notice was not signed at the foot thereof as required by the statutory form.

The revising barrister decided that the name of the appellant was sufficiently incorporated by reference in the body of the notice, and that, regard being had to the proviso in section 18 of the Registration Act, 1885, the notice in question was a good notice; and on failure of proof of qualification he expunged the

appellant's name, and the other names comprised in the schedule, from the list.

The court affirmed the decision (a): *Sutton v. Wade*, L. R. [1891] 1 Q. B. 269; 60 L. J. Q. B. D. 28; 1 Scott Fox's Reg. Cas. 170; 63 L. T. N. S. 588; 39 W. R. 223.

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(a) In *Gale v. Overend*, and *Moore v. Atkinson* (argued together with the above case), there was a similar notice of objection to the overseers, except that in *Moore v. Atkinson* the objector's signature had been placed *after* the list of names objected to, but it had been contended that the notice was bad because the forms made no provision for a list or schedule at all. The revising barrister in each case having held that the notice was bad, the court reversed their decisions.

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## SUFFICIENCY OF DESCRIPTION IN LISTS OF VOTERS.

*Revising Barrister has no power to substitute "leasehold" for "freehold" in third column of an ownership list.*

CHESHIRE (ALTRINCHAM DIVISION). P. A. was objected to on the Cheadle list of ownership electors. The nature of his qualification was stated in the third column to be "freehold house." The objection was grounded on that column, and related to the nature of his interest in the qualifying property. It was proved that the house in question was leasehold, and not freehold, and that P. A.'s interest was sufficient in law to constitute a qualification of a leasehold nature. It was admitted that the objection was good if the list were not amended, and the revising barrister was asked to amend the list by altering the word "freehold" to "leasehold" in the third column. The revising barrister held that he had power to do as requested, and accordingly substituted "leasehold" for "freehold" in the third column, and retained the name in the list. The Divisional Court (Vaughan Williams and Lawrance, JJ., *dissentiente* Grantham, J.) reversed the decision. Leave to appeal having been granted, under 44 & 45 Vict. c. 68, the Court of Appeal (Lord Esher, M. R., Lopes, and Kay, L.JJ.) affirmed the decision of the Divisional Court (*b*): *Plant v. Potts*, L. R. [1891] 1

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(*b*) There was a second appeal of *Robinson v. Potts* from the same revising barrister. *Plant v. Potts* only was argued in the Divisional Court, and *Robinson v. Potts* only in the Court of Appeal. The point raised in both cases was identical, and only one judgment given.

Q. B. 256; 1 Scott Fox's Reg. Cas. 206; 60 L. J. Q. B. D. 33; 63 L. T. N. S. 730.

*Where the nature of a voter's qualification was misdescribed in Division III., and Revising Barrister (with a view to amend such misdescription) gave effect to a declaration under section 24 of 41 & 42 Vict. c. 26, by transferring the voter's name to Division I., it was held that he had no power to do so in the absence of a claim by the voter for the insertion of his name in that Division.*

BOROUGH OF BURNLEY. R. S. was objected to on Division III., where the nature of his qualification was described in the third column as "house (joint)." He had duly sent in a declaration for correcting misdescription, wherein he declared that he was qualified, both as a parliamentary elector and a burgess, in respect of a "house." It appeared to the revising barrister, on reading this declaration, that the declarant (R. S.) was qualified for being entered on Division I. One of the political agents (not the objector) thereupon requested the revising barrister to transfer the name of R. S. from Division III. to Division I. R. S. had made no claim to have his name inserted in Division I. The objector, who appeared in person, objected to the revising barrister transferring the name of R. S. from Division III. to Division I., on the ground that he had no power in law so to transfer it, the two lists being entirely distinct, and R. S. having made no claim as a parliamentary elector. But the revising barrister held that he had power to transfer the said name, and he transferred it accordingly.

The court (reversing the decision) held that R. S.



having made no claim to have his name inserted in Division I., the revising barrister was not empowered to make the transfer, such transfer involving a change in the description of the qualification which was not within the powers of amendment given by 41 & 42 Vict. c. 26, s. 28: *Lord v. Fox*, L. R. [1892] 1 Q. B. 199; 61 L. J. Q. B. D. 60; 1 Lacey Smith's Reg. Cas. 266; 65 L. T. N. S. 617.

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## PERSONAL DISQUALIFICATIONS.

*Almspersons of St. Bartholomew's Hospital, in the City of Gloucester, are disqualified for the franchise by reason of their position under the hospital regulations, which make their participation in the benefits of the charity dependent upon the will of the trustees.*

CITY OF GLOUCESTER. The appellant was on the list of freemen, and his place of abode was stated to be "St. Bartholomew's Hospital." His name was objected to on the ground that he had received disqualifying alms during the twelve months ending the 15th of July in the year of registration. The appellant had been for thirteen years an almsperson of St. Bartholomew's Hospital, in the city of Gloucester, and had during the whole of that time occupied gratuitously, and resided in, a room in the hospital assigned to him by the trustees, and had received from them a weekly allowance of 10s., and half a ton of coals every Christmas. He had also occupied a separate plot of garden ground behind the hospital assigned to him by the trustees. He had no means of subsistence other than the allowance from the hospital.

Under the scheme (approved by the Charity Commissioners) for the management and regulation of the hospital, its clear yearly income, after the payment of all necessary outgoings and expenses of management, were to be expended and applied by the trustees in the maintenance and support of the almshouses and the payment of the respective allowances and stipends of the almspeople and other persons.

The almshouse or hospital buildings belonging to the charity were to be appropriated and used for the occupation of almspeople, to be appointed from time to time by the trustees, subject to such reasonable regulations as the trustees might from time to time prescribe consistently with the provisions of the scheme. The almspeople were to be selected from poor deserving men or women (as the case might be) of good character, either widowers or widows, or unmarried, of not less than sixty years of age at the time of appointment, and who had not, during the period of three years next preceding their appointment, been in receipt of parochial relief. A preference was to be given to candidates having the necessary qualifications who should have become reduced by accident or misfortune from better circumstances, or who should have become incapacitated by illness or otherwise from maintaining themselves by their own exertions, and in any special cases of the latter class the trustees were to be at liberty to elect a candidate exceptionally under the age of sixty years. The trustees were to pay out of the annual income of the charity an allowance at the rate of not less than 7s., or more than 10s., per week to each almsperson. The trustees were to be at liberty to provide each almsperson, in addition to his or her pecuniary allowance, with a reasonable amount of washing, and also with a gift of coals or other necessaries annually, to the value of not more than 20s., and also to allow to each almsperson the use and occupation of a separate plot of garden ground behind the hospital, so long as it should be properly cultivated and kept in neat order at his or her own expense. No almsperson was to be allowed to be absent from the almshouse for more than twenty-four hours without the consent in writing of the trustees, which might, however, for any sufficient reason, be given retrospectively after the absence had occurred. The almspersons were to be removable by the trustees for insobriety, immorality, breach of

rules, or other misconduct. Payment of the stipend to the almspersons might be suspended by the trustees if they should think fit. No almsperson was to be permitted to let the room or rooms allotted to him or her, or to suffer any stranger, other than the wife of a married almsman, to occupy the same or any part thereof.

The trustees were to be at liberty to appoint from time to time a master and matron, who were to reside in the hospital, and not to absent themselves except with the permission of the trustees. Subject to the authority of the trustees, the master was to have the immediate superintendence and control of the almsmen, and the matron of the almswomen, and they were to report to the trustees any case of misconduct or breach of rule on the part of any almsperson. The revising barrister held that under the above circumstances the objection to the appellant's vote, and to the votes of three other persons (whose cases were consolidated herewith), was sustained, and he accordingly expunged their names from the list. The court affirmed the decision on the ground that under the regulations of the hospital scheme the position of the almspersons was one of dependence on the goodwill of the trustees: *Dic v. Kent*, 1 Scott Fox's Reg. Cas. 186; 63 L. T. N. S. 641; 55 J. P. 213.

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## PRACTICE.

*Refusal of Revising Barrister to hear a person appearing before him on behalf of a political association is not a matter of appeal within sect. 42 of 6 Vict. c. 18.*

*A Barrister-at-law who appears at a revision court on behalf of a "party or other person," though without fee, is within sect. 41 of 6 Vict. c. 18. An association is a "party" within that section.*

B. C. (a barrister-at-law) attended a revision court and claimed to appear (as in fact he had appeared in two preceding years) in support of all claims put forward by, or made in the interests of, the local Liberal association. The revising barrister was of opinion that he was precluded from hearing B. C. by virtue of the provision contained in sect. 41 of 6 Vict. c. 18. B. C. contended that, inasmuch as he appeared for an *association*, he did not appear for any "*party or other person*," and therefore was not affected by the provision in question.

The revising barrister decided that such contention was untenable.

B. C. further contended that he appeared without fee or payment of any kind from the said association, and was therefore not "*counsel*" within the meaning of the said section.

The revising barrister decided against him on this point also, but agreed to state a case for the opinion of the High Court upon which he might act in the future. The court held that the association was certainly a "*party*," and that B. C. was "*counsel*" acting for a "*party*," but that the revising barrister



had no power to state a case, as no "point of law" was involved "material to the result of any case," within sect. 42 of the said Act: *O'Connor v. Nicholson*, 1 Lacey Smith's Reg. Cas. 250.

*Refusal of Revising Barrister to "star" (a) the duplicate entry of a county elector is not a matter of appeal within section 42 of 6 Vict. c. 18.*

COUNTY OF LINCOLN—KESTEVEN (LOCAL GOVERNMENT) DIVISION. The name of a county elector had been entered in two electoral divisions, viz., Quarrington and Heckington. There was no objection to him, and he was duly qualified to vote in respect of each qualification. The revising barrister was asked by the appellant to "star" (a) one of the said entries in the same way as is done in boroughs under 41 & 42 Vict. c. 26, s. 28, sub-s. 14. This the barrister refused to do, and granted a case for appeal.

A preliminary objection was taken to the court (Queen's Bench Division) entertaining the appeal, and it was urged that the power of appeal is conferred by section 42 of 6 Vict. c. 18, and that that section is limited to the matters therein mentioned, which do not include the present case. The Court held that the objection was good, and dismissed the appeal: *Arnold v. Sharpe*, 1 Lacey Smith's Reg. Cas. 252; 65 L. T. N. S. 618.

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(a) *I. e.*, to place against such entry a note to the effect that the person was not entitled to vote in respect of the qualification therein contained, he being on the list for voting in respect of another qualification.

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